

PERSONNEL RESOLUTION UNION COUNTY, NORTH CAROLINA

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**PERSONNEL RESOLUTION
UNION COUNTY, NORTH CAROLINA**

Be it resolved by the Board of County Commissioners of Union County that the following rules and regulations shall govern the appointment, classification, salary, promotion, demotion, dismissal, and conditions of employment of the employees of Union County, North Carolina.

Be it further resolved that Union County is an Equal Opportunity Employer and hires only those persons lawfully authorized to work in the United States.

ARTICLE I. ORGANIZATION OF PERSONNEL SYSTEM

SECTION 1

Purpose

The purpose of this resolution is to establish a personnel system which will recruit, select, develop, and maintain an effective and responsible work force. This resolution is established under the authority of Chapter 153A-Article 5 and Chapter 126 of the North Carolina General Statutes.

Procedures outlined herein are written around employees with a supervisor and an Executive/Division Director. When the individual concerned is a supervisor or an Executive/Division Director, the individual at the next level in the chain-of-command will be the designated person.

SECTION 2

Coverage

Revised December 16, 2005, May 19, 2008, December 15, 2008, January 20, 2009, February 18, 2013, April 15, 2013, December 7, 2015

All persons in the County's employ shall be subject to these regulations, except as noted below.

- 1) These regulations shall not apply to elected officials, except as expressly stated herein.
- 2) To the extent that they directly relate to hiring, discharge and supervision, these regulations shall not apply to the employees in the offices of the Sheriff and Register of Deeds.
- 3) The County Manager's employment is subject to the terms of his or her contract for employment with the County. All provisions, rules and regulations for and of the County relating to vacation and sick leave, retirement and pension system contributions, holidays, other fringe benefits, and working conditions shall apply to the County Manager the same as they would apply to other County employees, in addition to any other benefits set forth in the terms of the County's Manager's contract for employment with the County.
- 4) These regulations shall not apply to the County Attorney appointed pursuant to NCGS Sec. 153A-114.
- 5) Article IV, Section 10 and Article VIII shall not apply to the following job classifications:
 - a. County Manager
 - b. Assistant County Manager
 - c. Assistant to the County Manager
 - d. Executive Attorney
 - e. Executive Directors
 - f. Division Directors
 - g. Assistant Public Works Director
 - h. Assistant Human Resources Director
 - i. Fire Marshal
 - j. Controller
- 6) Article VI Sections 1, 3, 4, 5, 6, 8, 11, 13, 14, Article VII, Article VIII, and Article XI shall not apply to non-benefited part-time employees, as defined in Article III, Section 8.
- 7) To the extent that they conflict with the State Personnel Act, these regulations shall not apply to employees subject to said Act. The only County employees subject to the State Personnel Act are those employees in the Emergency Management Division.
- 8) For all employees appointed by various Boards (District Manager of Soil & Water Conservation, Executive Director of Tax Administration, Clerk to the Board, Elections Director), as well as all employees of the Union County Board of Elections, the provisions of this Resolution shall apply to the

extent that they do not conflict with the North Carolina General Statutes which govern their appointment.

SECTION 3

Appointing Authority

In accordance with the provision of North Carolina General Statutes Sec. 153A-82, the County Manager shall, appoint, suspend and remove all County officers, employees and agents. Excluded from this section are officers, employees and agents who are elected by the people or whose appointment is otherwise provided for by law. As to those officers, employees or agents who are excluded from this section, the County Manager shall recommend individuals for such appointments to the Board of Commissioners.

SECTION 4

Responsibility of the Board of Commissioners

Revised 12/1998

The Board of Commissioners shall establish personnel policies and rules, including the classification and pay plan and shall make and confirm appointments when so specified, by law.

SECTION 5

Responsibility of the County Manager

Revised February 18, 2013

The County Manager shall be responsible to the Board of Commissioners for the administration of the personnel program. This responsibility shall include the duty to direct and supervise the administration of all County offices and departments under the general control of the Board of Commissioners, subject to the general direction and control of the Board. All such offices and departments supervised by the County Manager shall report to the Board of Commissioners through the County Manager.

The County Manager shall appoint, suspend, and remove all County officers and employees, except those elected by the people or whose appointment is otherwise provided for by law. The County Manager shall administer all appointments, dismissals, and suspensions in accordance with 153A-82 of the North Carolina General Statutes and the provisions set forth in this personnel resolution.

The County Manager has the responsibility of applying and carrying out this resolution and the policies adopted hereunder. All references to the County Manager exercising such responsibilities in this Resolution are deemed to include a reference to any person to whom the County Manager has properly delegated the requisite authority for such responsibilities.

SECTION 6

Responsibility of the Personnel Director

Revised 12/1998, February 18, 2013

The County Manager, with the approval and consent of the Board of Commissioners, shall serve as or appoint a Personnel Director or Assistant(s) who shall assist in the preparation and maintenance of the position classification plan, the pay plan, and perform other duties in connection with a modern personnel program as the Board of Commissioners shall require. All actions concerning personnel (e.g. hiring, firing, compensation, leave, retirement) shall be brought to the attention of the Personnel Department immediately

so that the necessary records can be maintained. The Personnel Director's responsibilities include, but are not limited to: applying and carrying out these regulations and the policies adopted hereunder.

ARTICLE II. CLASSIFICATION PLAN

SECTION 1

Adoption

The position classification plan, and its periodic amendments, as approved by the Board of County Commissioners, is hereby adopted as the position classification plan for Union County.

SECTION 2

Allocation of Position

The County Manager shall, with the help of the Personnel Director or assistants, allocate each position covered by the classification plan to its appropriate class in the plan.

SECTION 3

Administration of the Position Classification

The County Manager, or person(s) designated by the County Manager, shall be responsible for the administration and maintenance of the position classification plan so that it will accurately reflect the duties performed by employees in the classes to which their positions are allocated. Department Heads shall be responsible for bringing to the attention of the County Manager and the Personnel Director or assistants any material changes in the nature of duties, responsibilities, working conditions, or other factors affecting the classifications of any existing positions.

New positions shall be established only with the approval of the Board of Commissioners after which the County Manager shall either 1) allocate the new position to the appropriate class within the existing classification plan, or 2) recommend that the Board of Commissioners amend the position classification plan to establish a new class to which the new position may be allocated.

Periodically, the County Manager may find it necessary to enlist the help of sources outside the County officers to ensure that the classification plan reflects the present situation in the various jobs required by the County.

When the County Manager finds that a substantial change has occurred in the nature or level of duties and responsibilities of an existing position, the County Manager will 1) direct that the existing class specification be revised 2) reallocate the position to the appropriate class within the existing classification plan or 3) recommend that the Board of Commissioners amend the position classification plan to establish a new class to which the position may be allocated. This revision process may only be entertained annually, so as to be included in the annual budget, and requires written documentation to include a performance evaluation and an updated job description.

SECTION 4

Amendment of the Position Classification Plan

Classes of positions shall be added to and deleted from the position classification plan by the Board of Commissioners based on the recommendation of the County Manager.

ARTICLE III. THE PAY PLAN

SECTION 1

Adoption

The Salary Schedule, reflecting both grade level and step, as approved by the Board of County Commissioners, is hereby adopted as the pay plan for Union County.

SECTION 2

Maintenance of the Pay Plan

The County Manager shall be responsible for the administration and maintenance of the pay plan. The pay plan is intended to provide equitable compensation for all positions when considered in relation to each other, to general rates of pay for similar employment in the private sector and in other public jurisdictions in the area, to changes in cost of living, to financial conditions of the County, and other factors. To this end, the County Manager shall, from time to time, make comparative studies of all factors affecting the level of salary ranges and shall recommend to the County Commissioners such changes in salary ranges as appear to be warranted. Action taken relative to the County Manager's compensation will be the responsibility of the Board of County Commissioners.

SECTION 3

Administration of the Pay Plan

The pay plan of Union County shall be administered in a fair and systematic manner in accordance with work performed. The pay structure shall be externally competitive, maintain proper internal relationships among all positions, based on relative duties and responsibilities, and shall recognize performance as the basis for pay increases with the established pay range. The pay plan shall meet the requirements of the State Competitive System for local government employees for those employees subject to the State Competitive System, while maintaining a County-wide pay plan for all County employees.

All full-time permanent jobs with Union County are titled and assigned a salary range on the Union County salary scale. All employees are hired on a probationary status (Article IV, Section 10).

The normal hiring rate for employees is the minimum of their assigned salary grade. Appointments above the hiring rate may be made by the County Manager when deemed necessary in the best interest of the County, and will be based on such factors as the qualifications of the applicant being higher than the desirable education and training for the class, a shortage of qualified applicants available at the hiring rate, and the refusal of qualified applicants to accept employment at the minimum step. Any appointment above the Mid-Point of the pay grade must be approved by the Board of Commissioners.

SECTION 4

Merit Increases

The number of merit increases available for allocation in a given fiscal year is a budgetary consideration. The amount of funds available is determined and allocated by the Board of Commissioners.

Merit increases are not automatic, but may be awarded for the following reasons: 1) exceptional work achievements, 2) excellence in work performance, and 3) special contribution to productivity. Each employee may be considered annually for a merit increase prior to the beginning of the next fiscal year. Such merit increases must be recommended by the Department Head and approved by the County Manager. If

approved, the merit increases will be reflected in the paycheck that is compensation for work completed after the beginning of the new fiscal year. Even though all regular employees will be considered for merit increases, only those employees who exceed the standard and/or expected performance will receive a merit increase. The number of employees who receive merit increases will be consistent with funds available for this purpose.

The performance evaluation system, designed to facilitate fair and equitable merit pay decisions, must meet the needs of both management and employee. From these performance evaluations, recommendations for merit increase will be accepted.

An employee's absence from work, due to sick leave, leave without pay, leave due to injury on the job, or any other authorized leave, may be cause for the Department Head to request an extension for the annual performance evaluation review, so as to allow adequate evaluation of performance.

The following factors will be considered when evaluating employees:

- a) Quality, quantity, and knowledge of work;
- b) Relationship with co-workers as exemplified by willingness to accept assignments;
- c) Amount of guidance and/or supervision required.
- d) Initiative and application of time; Performance when dealing with the public;

Secondary factors to be considered are:

- a) Relationship of performance to present pay;
- b) Internal pay relationships;
- c) Individual circumstances;
- d) Length of time since last increase;

All requests of merit increases will be fully documented, and will be granted only to employees who have performed above the standard for his/her position. This documentation shall be a written justification not to exceed one (1) page.

SECTION 5

Payment at a Listed Rate

All employees covered by the salary plan shall be paid at a listed rate within the salary ranges established for their respective job classes except for employees in a trainee status, or employees whose present salaries are above the established maximum rate following transition to a new pay plan.

When an employee attains the maximum rate of a salary range for his/her present position, no further salary increases will be received unless:

- a) The position is reclassified;
- b) The employee is promoted to another position with a higher salary range, or; the salary for the present position is increased.

SECTION 6

Salary of a Trainee

An applicant hired, or employee promoted to a position in a higher class, who does not meet all the established requirements of the position, shall be appointed with the approval of the County Manager to the minimum of the next pay grade below the pay grade which has been approved for that class. All such County employees shall be designated "Trainees" based upon recommendations of the Department Head with the approval of the County Manager. An employee in a trainee status shall continue to receive a reduced salary until the Department Head and the County Manager shall determine that the trainee is qualified to assume the full responsibilities of the position. This period of time shall normally be considered to extend not less than four months and not more than one year. Written notification from the Department Head of a change in status will become part of the employee's personnel file.

SECTION 7

Pay Rates in Promotion, Demotion, Transfer, and Reclassification

When an employee is promoted, demoted, transferred, or reclassified, the rate of pay for the new position shall be established in accordance with the following rules:

- a) When a promotion occurs the employee's salary shall be increased, if it is below the new minimum, to at least the minimum rate of the salary range assigned to the class to which he/she is promoted. If an employee's current salary is already above the new minimum salary rate, his/her salary may be adjusted one step upward or left unchanged at the discretion of the County Manager, provided that the adjusted salary does not exceed the maximum of the assigned salary range.
- b) When an employee has satisfactorily completed a period of "trainee" status and the Department Head has submitted the necessary paperwork to the Personnel Department, the employee's salary will be adjusted according to Section 6 of this Article.
- c) When a demotion occurs as a result of a reclassification due to a reallocation of duties and responsibilities or other action not attributable to any fault of the employee, and the employee's current salary falls above the maximum of the range for the lower class, the employee's salary may remain the same until general schedule adjustments or range revisions bring it back within the lower range; or the employee's salary may be reduced to any salary within the lower salary range, as long as the reduced salary does not fall below the minimum salary rate of that range.
- d) When a demotion occurs for cause of action attributable to the fault of the employee, the employee's salary shall be adjusted so that it does not exceed the maximum of the range for the new position.
- e) When a transfer occurs from a position in one class to a position in another class, assigned to the same pay range, the employee shall continue to receive the same salary.
- f) When a reclassification occurs, the employee whose position is reclassified to a class having a higher salary range shall be increased to the minimum step of the new salary range. If the employee's current salary is already above the minimum salary rate, his/her salary may be adjusted upward or left unchanged at the discretion of the County Manager, provided that the adjusted salary does not exceed the maximum of the assigned salary range.

- g) Persons hired to fill a vacancy in a job approved by the Board, but not assigned a specific salary grade, shall be entered on the payroll at a dollar figure established by the County Manager which is equal to or less than that amount budgeted for the current year by the Board of Commissioners unless the Board takes formal action otherwise.

SECTION 8

Pay for Part-Time Work

Revised February 18, 2013

Part-time employees may be categorized as follows: regular part-time working 1, 000 or more hours per year, and non-benefited part-time working less than 1,000 hours per year, which includes temporary / seasonal employees.

Regular part-time employees working 1, 000 or more hours per year are persons in a position working a regular schedule whose duties require 1,000 or more hours per year but fewer than thirty hours per week. Such employees are hired with the understanding that they will earn vacation and sick leave hours and participate in the Local Government Employees' Retirement System but will not receive County paid insurance. Budgetary considerations must be made for the employer contribution to the Retirement System, 401K, vacation and sick leave for regular part-time employees. Leave earned shall be proportional to that of a full time employee.

Non-benefited part-time employees, which include temporary and seasonal employees, are persons hired for a duration not-to-exceed 12 months and whose duties require fewer than 1000 hours per year. Such employees shall not be eligible for annual leave, sick leave, paid holidays retirement benefits, or County-paid insurance benefits and may be terminated by the County at will at any time. Non-benefited part-time employees shall be eligible for Workers' Compensation Insurance coverage and subject to Social Security regulations applicable to the County.

SECTION 9

Flex Time

Under limited circumstances, employees of Union County who work in the same capacity, may, at their option, substitute work hours as long as such substitute has prior approval by the immediate supervisors of each employee involved. However, it is understood that no overtime hours may be generated as a result of such substitutions. This applies only to those employees performing standard shift work.

SECTION 10

Payroll Deductions

Federal and State income taxes, Social Security tax, and Local Government Employees' Retirement System contributions shall be payroll deducted as authorized by law and/or the County Commissioners. Any other payroll deduction must be approved by the Board of Commissioners.

SECTION 11

Overtime

Revised May 5, 2008

(a) Overtime for employees other than law enforcement and detention employees is defined as time worked over 40 hours in a given seven-day work week beginning Friday midnight. All overtime worked in every department must have the prior approval of the County Manager, except in cases where emergency situations occur. Accounting for overtime for all departments shall be done on the official payroll time cards. Overtime for law enforcement and detention employees, however, shall be based on a 14-day cycle with overtime being any hours worked in excess of 86 hours for law enforcement and detention employees during the cycle. All overtime shall be paid or compensated for in accordance with the FLSA.

(b) The payment in cash for overtime will be made only for hours worked over and above a 40-hour, seven-day work week for other than law enforcement and detention employees. Overtime payment for covered nonexempt law enforcement and detention employees will be made only for hours worked over and above 86 hours during a 14-day cycle.

(c) Hours worked in excess of those listed in the preceding paragraphs are considered overtime for pay purposes. Pay for vacation time, sick time, holidays, etc. is not pay for time worked and is therefore not considered as hours worked for purposes of overtime computations. Pay for overtime hours worked shall be at the rate of one and one-half times the employee's hourly rate of pay.

(d) Compensatory time off for overtime hours worked may be provided in lieu of immediate overtime pay in cash in accordance with appropriate current FLSA rules, at the option of the County Manager, for covered nonexempt employees.

- (1) Covered nonexempt employees shall be granted compensatory time for overtime hours worked at a rate of one and one-half hours for each hour of overtime worked subject to the following provisions:
 - a. The maximum compensatory time which may be accrued by any affected employee shall be 480 hours (i.e. not more than 320 hours of actual overtime hours worked) for all law enforcement and detention employees and 240 (i.e. not more than 160 hours of actual overtime hours worked) for all other employees. An employee who has accrued the maximum number of compensatory hours shall be paid overtime compensation in cash for any additional overtime hours of work.
 - b. An employee shall be encouraged to use accrued compensatory time within a reasonable period, e.g., within 30 days, if to do so would not unduly disrupt the operations of the work site.
 - c. Nonexempt employees having accrued compensatory time upon termination of employment shall be paid for such time which shall be calculated at the average regular rate of pay for the final three years of employment, or the final regular rate received by the employee, whichever is higher.
 - d. Compensatory time off is encouraged with covered nonexempt employees when it is given within the same work week and for law enforcement and detention employees within a 28-day cycle to avoid an overtime situation from occurring.
- (2) Exempt employees shall not receive payment or compensatory time off for hours worked, travel time, attendance at meetings, etc. in excess of the normal work week. However, exempt employees who are required to work on an authorized holiday shall be given a compensatory day off at another time.

SECTION 12

Payroll Procedure

All employees shall be paid on a bi-weekly basis, with every other Thursday designated as pay day. The check will reflect the two weeks preceding the week containing the pay day. If pay day falls on a holiday, employees will be paid on the last working day before the holiday.

SECTION 13

Salary Adjustments

Salary adjustments shall become effective on the date of the actual adjustment and will be reflected in the paycheck that is compensation for work performed during the pay period immediately following the adjustment.

ARTICLE IV. RECRUITMENT AND EMPLOYMENT

SECTION 1

Statement of Equal Employment Opportunity Policy

It is the policy of the County to maintain a systematic, consistent recruitment program, to promote equal employment opportunity, and to identify and attract the most qualified applicants for all present and future vacancies. This intent is achieved through consistency in announcing all positions, evaluating all applicants on the same criteria, and by applying testing methods through the local Employment Security Commission. Equal employment opportunities are allowed without regard to sex, race, religion, color, national origin, age, non-disqualifying handicap, or uniformed service.

SECTION 2

Recruitment - Responsibility of Personnel Director

The Personnel Director shall be responsible for an active recruitment program to meet current and projected manpower needs, through procedures that will assure equal employment opportunities based on reasonable performance related job requirements. To accomplish this, the efforts of the Personnel Department and all County departments must be coordinated in a timely manner.

All position announcements should be posted for a minimum of five (5) working days at 1) The County Personnel Office, and 2) the local Department of Commerce, Division of Employment Security office, which have been designated as the established referral sources. Optional recruiting publicity shall be carried out through media appropriate to the position. In extreme circumstances, where a situation requires immediate action, the posting period requirement may be waived by the appointing authority. All references in this Resolution to the Department of Commerce, Division of Employment Security (formerly known as the Employment Security Commission) shall be deemed to refer to any successor Division or Agency that conducts similar activities to the Department of Commerce, Division of Employment Security.

SECTION 3

Job Advertisements

Recruiting announcements shall include information pertinent to the position/work involved, including at minimum, the title, salary grade and range, key duties, knowledge and skill requirements, minimum education and experience standard, contact person, special certification or licensing requirements, and application closing date. In addition, assurance of Equal Employment compliance, as well as the County's statement to comply with the Immigration Reform and Control Act of 1986, shall be contained on the County application.

SECTION 4

Application for Employment

The Union County standard application shall be the application accepted for all position listings. Applicants are encouraged to apply only for positions currently available. All applications submitted must be able to be categorized according to the established job categories for filing purposes. Applications should not be submitted with "anything you feel I am qualified for" on the position applied for" line of the application. Applications should be made to the Personnel Department. Applications accepted within an agency or department will be forwarded to the Personnel Department immediately. Referrals to departments may be made through the County Personnel Department or the local Department of Commerce, Division of Employment Security office.

SECTION 5

Application Tracking

The Personnel Department shall be responsible for maintenance of records of all job announcements, including posting and closing dates, all optional referral sources utilized during the recruitment process, and the specifics on the pool of applicants considered for each vacancy.

The specifics shall include a file containing all applicants, their social security numbers, and test scores, when applicable, for each job vacancy. To the extent that it is practical, reference to these records shall be made periodically in connection with the County's overall selection procedures, to insure that equal consideration is given to all qualified applicants.

SECTION 6

Qualified Standards

All applicants considered for employment or promotion, shall meet the employment standards established by the class specifications relating, to the position to which the appointment is being made.

All appointments shall be made on the basis of merit and without regard to politics, age, race, sex, color, non-disqualifying handicap, religious affiliation, or national origin.

If the duties of the position may involve operation of County owned/insured vehicles, the Department Head shall initiate a review of the driving record of the final candidates, which will become part of the Personnel file.

Pursuant to NCGS Sec. 153A-103, the Board of Commissioners must approve the appointment by the Sheriff or Register of Deeds of a relative by blood or marriage of nearer kinship than first cousin or of a person who has been convicted of a crime involving moral turpitude.

Consideration may be given to "Trainee" appointments when there is an absence of qualified applicants from which to make a selection. In this instance, the deficiencies may be eliminated through orientation and on-the-job training. Trainee status is discussed in Article III, Section 6.

SECTION 7

Selection

Selection shall be based upon the selection policy established by the County Manager. The Manager shall develop a selection process which the Personnel Department and Department Heads shall use to fill positions. All selection methods developed shall be fair, accurate and nondiscriminatory.

Upon request, the Personnel Director will rank the applicants by qualifying standards and submit the top three to five (3-5) applicants for the position to the Department Head. This will reduce the screening efforts on behalf of the Department Head who can then concentrate his/her efforts on interviewing the applicants. Department Heads will then recommend a candidate for the position to the County Manager for approval and appointment.

SECTION 8

Promotion of an Employee to Fill a Vacancy

Candidates for promotion shall be chosen on the basis of their qualifications and their work records without regard to age, sex, race color, creed, religion, political affiliation, national origin, or non-disqualifying handicap. Performance appraisals and work records for all personnel meeting minimum qualifications for the position shall be carefully examined when openings for positions in higher classifications occur. The posting period must still be held in accordance with Section 2 of this Article.

If a current County employee is chosen for promotion, the Department Head shall forward the request to the County Manager with recommendations for the classification and salary along with reasons for selecting the employee over other applicants. After considering the Department Head's recommendation, the County Manager shall make or reject the appointment and, if appointed, determine the classification and starting salary.

SECTION 9

Notification of Appointments

As soon as an appointment is made, prior to the employee officially beginning work, the Department Head shall notify and coordinate with the Personnel Director regarding the appointment. The Personnel Action Form, the original application for employment, test score sheet, when applicable, and any additional supporting test documents shall be forwarded to the Personnel Director immediately. This will also provide an opportunity to schedule the new employee time with the Personnel Department so that they may enroll in the retirement system, 401K, insurance, etc.

SECTION 10

Probationary Period of Employment

Revised February 18, 2013

An employee appointed to a full-time or regular part-time position will serve a probationary period of twelve (12) months. Any employee serving a probationary period, following initial appointment, may be dismissed without the dismissal procedures stated in Article VIII at any time during the probationary period if either job performance or personal conduct was unsatisfactory.

Upon completion of the probationary period, an employee will be subject to Articles VIII and IX relating to any disciplinary actions and grievance procedures.

Prior to completion of the probationary period, if an employee is found to be performing unsatisfactorily in any regard as to job performance or personal conduct, the Department Head may indicate in writing, for the County Manager's approval, a request that the employee:

- a) Be dismissed due to performing unsatisfactory work or displaying unacceptable personal conduct; or
- b) Should not be retained in his/her present position and should be:
 - 1) Demoted; or
 - 2) Transferred

Employees within a probationary period shall not be considered for posted employment opportunities until the completion of this probationary period.

If an employee changes position due to transfer (except a lateral transfer within the same work unit), promotion, or demotion, a six-month probationary period will be required of the employee in his or her new position.

SECTION 11

Transfer

If a vacancy occurs and an employee eligible for transfer from another department wishes to be considered for the appointment, a written request and application must be forwarded to the Personnel Department during the recruitment period for the position. The request for transfer shall be subject to approval by the County Manager. The job vacancy must be posted in accordance with Section 2 of this Article and the procedures followed will be in accordance with Section 9 of this Article. Any employee transferred without his/her having requested it may appeal the action in accordance with the grievance procedure outlined in Article IX.

ARTICLE V. CONDITIONS OF EMPLOYMENT

Revised 3.1.2010, February 18, 2013

SECTION 1

General Policy of the County of Union

It is the general policy of the Union County Board of Commissioners that all employees shall have at least a high school education unless this qualification is waived through the job description for that position.

Acts committed while on duty or off duty considered conduct unbecoming to a public employee may be considered grounds for dismissal.

Any falsification of application, required forms such as driving record or information release forms, or other items containing misleading statements is cause for immediate dismissal.

SECTION 2

Legal Offenses or Dishonorably Discharged

Persons convicted of a felony or of a charge involving moral turpitude are not disqualified from applying to the County for employment. Neither are persons who received a less than honorable discharge by the armed forces of the United States. The circumstances surrounding the crime and conviction or discharge will be investigated. This information will be brought to the Manager's office and the Department Head and the County Manager shall review the circumstances.

SECTION 3

Gifts and Favors

No official or employee shall accept any personal gift, favor, or thing of value that may tend to influence that employee in the discharge of duties. No official or employee shall grant in the discharge of duties any improper favor, service, or thing of value.

In addition, employees who work in departments receiving federal grant funds or who assist in the selection process, the award, or the administration of contracts supported by federal grant funds, must comply with Addendum #2, Union County Code of Conduct for Contracts Supported by Federal Grant Funds, attached and incorporated herein by reference. Federal grant funds include federal grant funds that are passed through to the County as a grant from another agency (i.e. State agency).

SECTION 4

Political Activity Restricted

Every employee of Union County has a civic responsibility to support good government by every available means and in every appropriate manner. Any employee may join or affiliate with organizations of a partisan or political nature, may attend political meetings, may advocate and support the principles or policies of political organizations in accordance with the Constitution and Laws of the State of North Carolina and by the Constitution and Laws of the United States of America. All employees shall be free from coercion for partisan political purposes. However, no employee of Union County shall:

- a) Engage in any political or partisan activity while on duty;

- b) Use official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office;
- c) Be required as a duty of employment or as a condition of employment, promotion, or tenure of office, to contribute funds for political or partisan purposes;
- d) Coerce or compel contributions for political or partisan purposes by another employee of the County; or
- e) Use funds, supplies, or equipment of the County for political or partisan purposes.

Employees subject to the State Personnel Act and employees in certain federally-aided programs are subject to the Hatch Act as amended in 1975. This federal act, in addition to prohibiting b, c, and d above, also prohibits candidacy for elective office in a partisan election.

SECTION 5

Outside or Additional Employment

The work of the County shall take precedence over the other occupational interests of full-time employees.

Any person in the full-time employ of the County that enters into a business or takes a second job shall inform his/her Department Head and the County Manager in writing. Activities shall not entail the occupation of time or effort while the employee is on duty for the County and no property of the County or property leased or rented by the County shall be used in these pursuits.

No person holding a County job that requires a specialization or knowledge can partake in a private business where this knowledge and influence associated with their County position could play a factor in the success of this endeavor. No officers or employees of the County shall engage in any additional business or job that would involve their receiving funds remitted by the County of Union.

Conflicting outside employment that results in conduct unbecoming a public official may be deemed improper conduct and shall subject each employee to disciplinary action, up to, and including dismissal.

SECTION 6

Dual Employment

Persons employed by the County are hired by one particular department at an appropriate pay grade and step. No employee will be permitted to perform services for additional compensation (or other benefits) for another department or the same department. Precinct workers for elections may be exempt from this Section with prior approval from the County Manager. The standard payroll deductions will be taken from the precinct work compensation.

SECTION 7

Delinquent Taxes

Taxes collected in Union County are used to fund the various offices and agencies that the County supports and administers. Any employee of the County of Union whose County ad valorem taxes are in arrears may be subject to dismissal. If any such dismissal occurs, arrangements for payment of overdue taxes will be made prior to issuance of employee's final check.

Persons being considered for employment by the County shall be required to sign a statement certifying that the County property taxes of said potential employee are paid up to date and that said taxes will not be allowed to become delinquent. Persons whose taxes are not up to date will not be considered for employment by the County.

SECTION 8

Bad Debts or Checks

Multiple instances of writing bad checks or failure to pay bills within a reasonable time on the part of County employees reflects adversely on the County and all County officials. Therefore, such financial undependability may result in suspension and/or discharge by the County Manager following a proper investigation of the circumstances.

SECTION 9

Driving or Working under the Influence

Persons employed by the County shall not, under any circumstances return to work, work or operate County owned, leased, or rented vehicles, or personal vehicles while on County business, while under the influence of drugs, including prescription drugs, if it is the opinion of a competent medical authority that driving ability is impaired by such substances.

County employees shall not report to work, work or operate County owned vehicles while under the influence of or with the smell of beer or other intoxicating beverages on their breath.

Employees suspected to be in violation of this Section shall be immediately reported to the County Manager who may suspend the suspected violator without pay, allowances or benefits until an investigation is conducted. If it is determined that the employee is not in violation of this Section, the employee shall be returned to duty with no loss of remuneration or benefits. If the employee is found to be in violation of this Section, he/she shall be discharged for unacceptable personal conduct according to the procedures outlined in Article VIII, Section 2.2.

SECTION 10

Limitation of Employment of Relatives

Revised December 16, 2005

The employment of close relatives within the same department or unit/section of a department, at the same time, is **STRONGLY DISCOURAGED**.

Two (2) members of an immediate family shall not be employed within the same department or unit/section of a department if such employment will result in one supervising a member of his/her immediate family, or where one member occupies a position, salary administration, and other related management or personnel considerations.

As to elected officials, the County shall not employ any individual who is a member of the immediate family of an elected official. If a member of the immediate family of an elected official is already employed by the County prior to the election of such official, such individual shall be allowed to continue employment until separated from service by one of the means provided in Article VII, Section 1. Notwithstanding the foregoing, the Sheriff and Register of Deeds may hire their own relatives by blood or marriage of nearer kinship of first cousin upon approval by the Board of Commissioners pursuant to G.S. 153A-103.

For the purposes of this Section, elected officials shall be defined as a Union County Commissioner, the Union County Sheriff, and the Union County Register of Deeds. For the purposes of this Section, "immediate family" shall be defined as wife, husband, mother, father, guardian, son, daughter, brother, sister, grandchildren and grandparents, as well as the various combinations of half, step, in-law, and adopted relationships that can be derived from those named herewith.

SECTION 11

JOB SHARING

In special circumstances, the County Manager may approve a job sharing arrangement in which two employees share the duties and responsibilities of one job, with both employees working part-time/reduced schedules. Requirements for a job sharing arrangement are as follows:

- The nature of work is suitable to a job sharing arrangement;
- Although the County will provide assistance, the employee has primary responsibility for finding an employee-partner with whom to job share;
- Both employees desire a job sharing arrangement and are equally qualified to perform the job at hand;
- Both employees are accountable for performing the job to required standards, communicating with each other, and ensuring a "seamless" transition between "shifts;"
- Both employees take responsibility for not only their own performance, but also that of their job share "partner."

Depending on the number of hours worked, the employees' status may change to that of part-time, rather than full-time, employees. In that instance, the employees may lose their eligibility for standard benefits or may have their benefits prorated based on the number of hours normally worked. Each case will be evaluated on an individual basis.

If a long-term absence occurs due to illness, maternity leave, or other approved leave of absence, the other employee may cover the period of absence. If this is not acceptable to the other employee, then the vacancy may be filled on a temporary basis.

If either employee wishes to return to full-time employment at a time when the other portion of their job sharing position is not vacant, the individual must apply for and be the successful applicant for a posted position.

SECTION 12 (Added 11/04)

Theft of County Property

Department Heads shall report suspected theft of County property to the Personnel Director. The Personnel Director shall report all occurrences of theft of County property to the Union County Sheriff's Office.

Article VI. TIME AWAY FROM WORK

Revised December 15, 2008, July 20, 2009

SECTION 1

Holidays

1.1 Purpose

Paid holiday leave provides eligible employees with the ability to celebrate and observe the recognition of person(s) and events(s) significant to United States history and culture with their families.

The County of Union observes the following standard holidays:

New Year's Day (January 1)
Martin Luther King, Jr. Day (Third Monday in January)
Good Friday (Friday before Easter Sunday)
Memorial Day (Last Monday in May)
Independence Day (July 4)
Labor Day (First Monday in September)
Veterans' Day
Thanksgiving Day (Fourth Thursday in November)
Day after Thanksgiving
Christmas Eve
Christmas Day
The Day after Christmas
(When both the day preceding and the day following Christmas Day are workdays)

If a holiday falls on a Saturday or Sunday, the holiday will be observed on Friday or Monday and will be coordinated with federal, state and city holidays whenever possible. When Christmas falls on Tuesday, Wednesday or Thursday the day before and the day after will be observed as holidays.

1.2 Eligibility

Holiday leave is earned by eligible employees who are either a:

Full time employee, **OR**

Regular part-time employee.

And who are currently:

- 1) On a pay for work status, **OR**
- 2) On a paid leave status.

The employee must be on pay for work status the day before and the day after the holiday occurs. Pay for work status is defined as a regularly scheduled work day, a scheduled day off, sick leave with pay, vacation with pay, compensatory time off, or use of accrued holiday leave.

1.3 Manner of Holiday Leave Accumulation

- a. Holidays are earned as they occur.
- b. Employees required to work on an observed holiday will be granted holiday leave based on their assigned holiday accrual rate.
- c. Compensation will not be advanced for holiday leave.
- d. Pay in lieu of holiday leave shall not be an option.
- e. Flexible and modified work scheduling shall be suspended during work weeks in which a holiday(s) occurs.

1.4 Maximum Holiday Leave Accumulation

County employees accrue holiday leave within the 12-month period of November 1st through October 31st. This 12-month period is designated as the "Leave Year" for holiday accruals. Employees must use their accrued holiday leave within the designated 12-month period. Each year, at the end of the pay period that includes October 31st, all unused holiday leave will be forfeited.

1.5 Holiday Leave Accrual Rates

For the purposes of determining holiday leave accrual rates, the 40 hour per week (2080 hours annually) work schedule is designated as the basis for the Standard Holiday Accrual Rate. Holiday leave accrual rates for all other annualized work schedules are to be calculated as a percentage differential that is either greater than or less than the Standard Rate.

<u>Hours Worked Annually</u>	<u>% of Standard</u>	<u>Hours Per Holiday</u>
2080	Standard	8
2184	105%	8.4
1768	85%	6.8
1560	75%	6
1352	65%	5.2
1144	55%	4.4

1.6 Requesting Use of Accrued Holiday Leave

- a. Employees should request use of accrued holiday leave in advance of the proposed leave period to give supervisors maximum opportunity to arrange schedules to accommodate the employee's request and adequately staff the workplace.
- b. Supervisors are responsible for ensuring that the business needs of the department are met when considering the request. Supervisors will endeavor to respond to the employee's holiday leave request(s) within ten (10) calendar days of his/her request for use of accrued holiday leave.
- c. The County has the right to require employees to use accrued holiday leave at specified times because of work schedules or budgetary reasons.
- d. If operational needs do not permit the granting of simultaneous requests for holiday leave, preference in granting the request shall be based on the respective seniority of the employees.
- e. Employees are cautioned not to retain excess accumulation of accrued holiday leave until late in the "Leave Year" due to the necessity to keep all County functions in operation. If an employee has excess leave accumulation during the latter part of the leave year and is unable to take such leave because of staffing demands, the employee shall receive no special consideration either in having use of accrued holiday leave approved or in receiving any exception to the maximum accumulation as outlined in Section 1.4.

1.7 Coordination of Holiday Leave

- a. Holidays occurring during vacation leave will be paid and recorded as holidays.
- b. Holiday leave, vacation leave or compensatory time off shall be used to account for an approved absence from a regular work schedule during periods of inclement weather as outlined in this Article.
- c. An employee may request to use accrued holiday leave, vacation leave or compensatory time off for any (otherwise) unpaid leave for established religious holidays, for Parental Involvement in Schools, or Inactive/Active Duty Military Leave.
- d. After having used all eligible sick leave an employee may request to use accrued holiday leave, vacation leave or compensatory time off for a qualified sick leave event under this Article OR a qualified Family and Medical Leave (FML) event.

1.8 Final Disposition of Holiday Leave Benefits

- a. An individual who is separated from employment without failure in performance of duties or personal conduct shall be paid a lump sum payment for unused holiday leave at the time of separation. Payout will not exceed the maximum number of hour's equivalent to 12 holidays at the employee's current rate of holiday accrual. The separation must be due to resignation, after having given two-week notice, reduction-in-force, service or disability retirement.
- b. Upon an employee's death, a sum equal to all unused holiday leave, not to exceed the number of hours equivalent to 12 holidays at the employee's current rate of holiday accrual shall be paid to their estate.

1.9 Special Provisions for Holiday Leave Accrued Prior to December 16, 2008

Holiday Leave accumulated prior to December 16, 2008, hereinafter referred to as “Pre-Policy Holiday Leave,” shall not be forfeited under Section 1.4 of this Article, nor shall Pre-Policy Holiday Leave be subject to the maximum number of hours limitations on the final disposition of Holiday Leave Benefits in Section 1.8. Beginning January 3, 2009, employees having Pre-Policy Holiday Leave are required to use such accrued leave prior to using accrued Vacation Leave.

Holiday Leave accumulated after December 15, 2008, may be used prior to accrued Pre-Policy Holiday Leave.

SECTION 2

Religious Holiday Leave

2.1 Purpose

Provides unpaid leave from normal work schedules for employees who observe the celebration and remembrance of event(s) or individual(s) associated with the practice of their religious beliefs.

2.2 Eligibility

Any employee of the County may be granted unpaid religious holiday leave.

2.3 Requesting Use of Religious Holiday Leave

- a. Employees should request leave in advance of the proposed leave period to give supervisors maximum opportunity to arrange schedules to accommodate the employee's request and adequately staff the workplace.
- b. Supervisors are responsible for ensuring that the business needs of the department are met when considering the request and determining if the employee's absence would cause undue hardship in conducting departmental business. Supervisors will endeavor to respond to the employee's leave request(s) within ten (10) calendar days of his/her request for use of religious holiday leave.
- c. If operational needs do not permit the granting of simultaneous requests for religious holiday leave, preference in granting the request shall be based on the respective seniority of the employees.

2.4 Coordination of Religious Holiday Leave

An employee may request to use accrued holiday leave, vacation leave or compensatory time off for any (otherwise) unpaid leave for established religious holidays.

SECTION 3

Vacation Leave

3.1 Purpose

The primary purpose of vacation leave is to allow eligible employees a period of uninterrupted time away from their job for rest and renewal.

Vacation leave with pay is a privilege and not an earned right which the eligible employee may demand.

3.2 Eligibility

Vacation leave is earned by eligible employees who are either a:

- 1) Full time employee, **OR**
- 2) Regular part-time employee.

And who are currently:

- 1) On a pay for work status, **OR**
- 2) On a paid leave status.

Pay for work status is defined as a regularly scheduled work day, a scheduled day off, sick leave with pay, vacation with pay, compensatory time off, or use of accrued holiday leave.

3.3 Manner of Vacation Leave Accumulation

- a. For the purpose of earning vacation leave, the twelve (12) month period between January 1 and December 31 is established as the leave year.
- b. The monthly amount earned is equal to one-twelfth of the annual rate for each month the employee works or is on approved leave with pay.
- c. Eligible employees who are on pay status the 15th day of the month shall earn a vacation leave benefit for that month.
- d. Credit for years of aggregate covered service is given beginning the first day of the pay period following the pay period of the employee's anniversary date.

Full Time Employees

Vacation leave is earned on a schedule based upon length of aggregate covered service paid into the Local Governmental Employee's Retirement System or the Law Enforcement Retirement System.

Regular Part-Time Employees

Vacation leave is earned on a schedule based upon the length of aggregate covered service paid into the Local Governmental Employee's Retirement System or the Law Enforcement Retirement System and the percentage of a full-time equivalency (FTE) associated with the position.

3.4 Maximum Vacation Leave Accumulation

Vacation leave may be accumulated without any applicable maximum until the end of the pay period that includes December 31 of each calendar year. On the last day of the pay period that includes December 31, any employee with a vacation leave balance exceeding the maximum hours listed in Section 3.5 shall have the excess accumulation transferred to his/her sick leave balance so that only the maximum limit may be carried forward to the next leave year.

3.5 Vacation Leave Accrual Rates

For the purposes of determining vacation leave accrual rates, the 40 hour per week (2080 hours annually) work schedule is designated as the basis for the Standard Vacation Leave Accrual Rate. Vacation leave accrual rates for all other annualized work schedules are to be calculated as a percentage differential that is either greater than or less than the Standard Rate.

<u>Hours Worked Annually</u>	<u>% of Standard</u>	<u>Years of Aggregate Covered Service</u>	<u>Hours Granted Each Year</u>	<u>Hours Granted Each Month</u>	<u>Maximum Hours for Roll-Over/Payout</u>
2080	Standard	Less than 2 years	96	8	240
2080	Standard	2 but less than 5 years	112	9.3	240
2080	Standard	5 but less than 10 years	136	11.3	240
2080	Standard	10 but less than 15 years	160	13.3	240
2080	Standard	15 but less than 20 years	184	15.3	240
2080	Standard	20 years or more	208	17.3	240
2184	105%	Less than 2 years	101	8.4	252
2184	105%	2 but less than 5 years	118	9.8	252
2184	105%	5 but less than 10 years	143	11.9	252
2184	105%	10 but less than 15 years	168	14	252
2184	105%	15 but less than 20 years	193	16.1	252
2184	105%	20 years or more	219	18.2	252
1768	85%	Less than 2 years	82	6.8	204
1768	85%	2 but less than 5 years	95	7.9	204
1768	85%	5 but less than 10 years	116	9.7	204
1768	85%	10 but less than 15 years	136	11.3	204
1768	85%	15 but less than 20 years	156	13	204
1768	85%	20 years or more	177	14.8	204
1560	75%	Less than 2 years	72	6	180
1560	75%	2 but less than 5 years	84	7	180
1560	75%	5 but less than 10 years	102	8.5	180
1560	75%	10 but less than 15 years	120	10	180
1560	75%	15 but less than 20 years	138	11.5	180
1560	75%	20 years or more	156	13	180

<u>Hours Worked Annually</u>	<u>% of Standard</u>	<u>Years of Aggregate Covered Service</u>	<u>Hours Granted Each Year</u>	<u>Hours Granted Each Month</u>	<u>Maximum Hours for Roll-Over/ Payout</u>
1325	65%	Less than 2 years	62	5.2	156
1325	65%	2 but less than 5 years	73	6.1	156
1325	65%	5 but less than 10 years	88	7.3	156
1325	65%	10 but less than 15 years	104	8.6	156
1325	65%	15 but less than 20 years	120	10	156
1325	65%	20 years or more	136	11.3	156
1144	55%	Less than 2 years	53	4.4	132
1144	55%	2 but less than 5 years	60	5	132
1144	55%	5 but less than 10 years	75	6.3	132
1144	55%	10 but less than 15 years	88	7.3	132
1144	55%	15 but less than 20 years	101	8.4	132
1144	55%	20 years or more	114	9.5	132

3.6 Transfer Credits

- a. Eligible employees shall have the aggregate number of service years paid into the Local Governmental Employee's Retirement System or the Law Enforcement Retirement System credited toward the County's schedule for determining vacation rates.
- b. Credit shall not be given for the actual days of vacation earned at any other unit of North Carolina local, municipal, or state government.
- c. Vacation accrual rates or accrued vacation time will not be affected when employees transfer between departments within Union County Government.

3.7 Requesting Use of Vacation Leave

- a. It is the joint responsibility of the department and the employee to ensure that vacation leave is scheduled and taken at a mutually-agreeable time. Employees should request vacation time in advance of the proposed leave period to give supervisors maximum opportunity to arrange schedules to accommodate the employee's request and adequately staff the workplace.
- b. Supervisors are responsible for ensuring that the business needs of the department are met when considering the request. Supervisors shall use discretion in scheduling vacation, based on the occurrence of peak workload periods, employee's length of service and other factors relevant to the operation of the department and the personal circumstances of the employee. Supervisors will endeavor to respond to the employee's vacation leave request(s) within ten (10) calendar days of his/her request(s) for use of vacation.
- c. If operational needs do not permit the approval of simultaneous requests for vacation leave, preference in granting the request shall be based on the respective seniority of the employees.
- d. Vacation leave may be requested by eligible employees after satisfactorily completing three (3) months of initial service subject to the prior approval of the immediate supervisor.

- e. Employees are cautioned not to retain excess accumulation of accrued vacation leave until late in the “Leave Year” due to the necessity to keep all County functions in operation. If an employee has excess leave accumulation during the latter part of the leave year and is unable to take such leave because of staffing demands, the employee shall receive no special consideration either in having accrued vacation leave approved or in receiving any exception to the maximum accumulation.

3.8 Coordination of Vacation Leave

- a. Pay in lieu of vacation shall not be an option.
- b. The County does not advance vacation time. Employees must have earned vacation leave before the leave may be used.
- c. Vacation leave shall not be used to complete a two week resignation after the last day of actual work.
- d. If an employee is on vacation and becomes hurt or ill, that person may exercise the option to use sick time; the Department Head may request medical verification.
- e. Holidays occurring during vacation leave will be paid and recorded as holidays.
- f. Holiday leave, vacation leave or compensatory time off shall be used to account for an approved absence from a regular work schedule during periods of inclement weather as outlined in this Article.
- g. An employee may request to use accrued holiday leave, vacation leave or compensatory time off for any (otherwise) unpaid leave for established religious holidays, for Parental Involvement in Schools, or Inactive/Active Duty Military Leave.
- h. After having used all eligible sick leave, an employee may request to use accrued holiday leave, vacation leave or compensatory time off for a qualified sick leave event under this Article OR a qualified Family and Medical Leave (FML) event.

3.9 Final Disposition of Vacation Leave Benefits

- a. Individuals who separate from employment without failure in performance of duties or personal conduct shall be paid a lump sum payment for unused vacation leave at the time of separation. Payment shall not exceed the maximum number of hours for payout as specified in Section 3.5. The separation must be due to resignation, after having given two-week notice, reduction-in-force, service or disability retirement.
- b. An employee shall not receive a lump sum payment for vacation leave if each of the following conditions occurs: (1) The employee’s separation results from dissolution of a County department by the Board of County Commissioners; (2) The Board contracts with another entity for provision of that department’s services; (3) The Board, through contractual provision, requires such entity to offer employment to employees of the dissolved department and to accept transfer of their accrued vacation; and (4) The employee accepts such employment. In this event, the employee’s accrued vacation leave will transfer to the new service provider.
- c. Upon an employee’s death, a sum equal to all unused vacation leave, not to exceed the maximum number of hours for payout as specified in Section 3.5, shall be paid to their estate.
- d. The last day of actual work is the date of separation.

SECTION 4

Sick Leave

4.1 Purpose

Paid sick leave provides employees protection against loss of income during absences from work due to illness or injury that prevent performance of duties and provides limited paid leave during periods of bereavement. It is intended to cover the needs of the employee and provide a reasonable amount of coverage for situations related to the illness or injury of an immediate family member that requires direct care by the employee. Sick leave is intended to be used only for the purposes set forth herein.

Sick leave with pay is a privilege and not an earned right which the eligible employee may demand.

4.2 Eligibility

Sick leave is earned by eligible employees who are either a:

- 1) Full time employee, **OR**
- 2) Regular part-time employee.

And who are currently:

- 1) On a pay for work status, **OR**
- 2) On a paid leave status.

Pay for work status is defined as a regularly scheduled work day, a scheduled day off, sick leave with pay, vacation with pay, compensatory time off, or use of accrued holiday leave.

4.3 Manner of Sick Leave Accumulation

- a. For the purpose of earning sick leave, the twelve (12) month period between January 1 and December 31 is established as the leave year.
- b. Eligible employees who are on pay status the 15th day of the month shall earn a sick leave benefit for that month.

Full Time Employees

Sick leave is earned at a fixed monthly accrual rate based on the annual number of hours regularly scheduled for work.

Regular Part-Time Employees

Sick leave is earned at a fixed monthly accrual rate based on the annual number of hours regularly scheduled for work as a percentage of full-time equivalency (FTE) associated with the position.

4.4 Maximum Sick Leave Accumulation

The amount of sick leave that may be accumulated is unlimited.

4.5 Sick Leave Accrual Rates

For the purposes of determining sick leave accrual rates, the 40 hour per week (2080 hours annually) work schedule is designated as the basis for the Standard Sick Leave Accrual Rate. Sick leave accrual rates for all other annualized work schedules are to be calculated as a percentage differential that is either greater than or less than the Standard Rate.

<u>Hours Worked Annually</u>	<u>% of Standard</u>	<u>Sick Hours Per Month</u>
2080	Standard	8
2184	105%	8.4
1768	85%	6.8
1560	75%	6
1325	65%	5.2
1144	55%	4.4

4.6 Sick Leave Transfer from Other Agencies

Unused sick leave earned from another North Carolina Governmental Agency and/or entity, immediately prior to employment with Union County will be accepted and transferred to Union County according to the following provisions:

- a. Verification of unused sick leave must be received in writing by Union County directly from the previous jurisdiction.
- b. The total balance of unused sick leave from the NC local or state government employer of the transferring employee will be verified and recorded by Union County at the time of employment.
- c. Upon the request of the employee, up to twelve (12) sick leave days, at the employee's current rate of accrual, will be transferred and added to the employee's active sick leave balance after completion of the initial six (6) month probationary period.
- d. The remaining balance of prior unused sick leave documented at the time of employment will be recorded in the employees permanent personnel file. On the fifth anniversary of employment with Union County, the employee may request that the remaining balance of prior unused sick leave be added to their active sick leave balance.

4.7 Coordination of Sick Leave

- a. Payment for sick leave hours in excess of the employee's scheduled work hours shall not be an option. Sick leave is authorized only for the time off that would fall on a scheduled workday.
- b. Pay in lieu of sick leave shall not be an option.
- c. The County does not advance sick leave.
- d. After having used all eligible sick leave an employee may request to use accrued holiday leave, vacation leave or compensatory time off.
- e. Sick leave cannot be used for vacation purposes. However, sick leave may be used if an employee becomes ill while on vacation leave. A doctor's statement, certifying the dates of illness, will be required in order to make this change upon return to work.
- f. Sick leave used during a vacation leave period does not extend the length of previously authorized vacation leave.

4.8 Requesting Use of Sick Leave

- a. Employees must receive approval from their supervisors to charge absences against accumulated sick leave. To use sick leave, an employee is required:
 - 1) To give at least 30 days advance notice of foreseeable medical needs (e.g., a planned medical treatment) whenever possible to give supervisors maximum opportunity to arrange schedules to accommodate the employee's request and adequately staff the workplace.
 - 2) To notify the appropriate supervisor or their designee of any unplanned sick leave event, as outlined in this Section, for which the employee will be absent from work, consistent with department or agency guidelines for such notification.
- b. In the absence of any formal department or agency guideline for notification of an unplanned sick leave event, the employee is required to provide notice of an absence from work due to an unplanned Sick leave event no later than 30 minutes after reporting time of the first full day that the absence occurs. The employee shall notify the supervisor of the nature of the circumstances bringing about the absence and anticipated length of the absence to allow time to reassign specific duties during the employee's absence. Failure to make this notification to the appropriate supervisor or their designee may prohibit the use of sick leave.
- c. In the case of emergency circumstances, it is the responsibility of the employee to notify his/her immediate supervisor as soon as possible.
- d. The employee may be required to provide their supervisor a physician's certification acceptable to the County for the purpose of supporting sick leave use, its continuance, or the employee's ability to return to work.
- e. If the absence exceeds three (3) consecutive work days, the employee is required to submit a FML Request Form to their immediate supervisor. (Administrative Note: The FML Employer Response Form must be completed and returned to the employee within two (2) business days.)
- f. The County may request a periodic report on the employee's status with respect to returning to work. These may be made by telephone, written correspondence or sent by fax.

4.9 Use of Sick Leave

Use of accrued sick leave may be approved for the following reasons:

- a. Illness or injury of the employee that prevents the employee from performing the essential functions of his /her job.
- b. Appointment for medical or dental examination or treatment when such appointment cannot reasonably be scheduled before or after scheduled work hours or on a day off.
- c. Quarantine due to a contagious disease in the employee's immediate family, or exposure to a contagious disease when continuous work might jeopardize the health of others.
- d. Caring for members of immediate family during periods of illness, injury or medical/dental appointments. For purposes of this Section, the employee's "immediate family" is defined as the employee's spouse, dependent children, or parents.
- e. The actual period of temporary disability caused or contributed by pregnancy to include: prenatal care, pregnancy related illness, miscarriage, childbirth, and recovery.
- f. For the placement with the employee of a son or daughter for adoption or foster care.
- g. Bereavement
 - i. An employee shall be permitted to use not more than five days of sick leave when an absence is required due to the death of the employee's spouse, parent, child, brother, sister, grandparent, grandparent-in-law, parent-in-law, sister-in-law, brother-in-law, step-parent, step-child, son-in-law, daughter-in-law, grandchild, foster parent, or legal guardian. Employees may be requested to provide proof of relationship or guardianship.
 - ii. An employee shall be permitted to use not more than one day of sick leave for bereavement or funeral attendance due to the death of an extended family member or close personal friend.
 - iii. Accrued holiday leave, vacation leave or compensatory time off may be requested for any additional bereavement time off other than as outlined above.
 - iv. The employee shall provide notice to the immediate supervisor as to the need for and likely length of any such bereavement leave.
 - v. The employee may be required to provide their supervisor adequate proof of the death (e.g. a newspaper obituary).

4.10 Sick Leave Abuse

Acceptable certification or documentation will be required whenever the supervisor has sufficient justification to believe that the employee is abusing sick leave or is using sick leave as it is earned and otherwise does not have a valid reason for requesting sick leave. An attendance record indicating a pattern of excessive use or previous abuse of sick leave is considered sufficient justification.

- a. Abuse of sick leave is defined as the use of sick leave for purposes other than those outlined in this Section.
- b. Supervisors should periodically analyze attendance records for evidence of possible abuse (e.g., patterns of unplanned absences such as frequent absences on Fridays/Mondays, seasonal absences, absences when a vacation request has been denied).
- c. Sick leave should be denied when there is evidence or reason to believe abuse has occurred until or unless the employee provides satisfactory evidence of legitimate use of sick leave.
- d. Abuse of sick leave is subject to the disciplinary provisions of this resolution.

4.11 Final Disposition of Sick Leave Benefits

- a. No employee shall be paid for any accrued or unused sick leave at the time of separation from service.
- b. Employees who are separated from service and are subsequently re-employed with Union County within a three (3) year period and who are otherwise eligible, shall have their unused sick leave balance reinstated.

SECTION 5

Voluntary Shared Leave

Revised September 16, 2014

5.1 Purpose

Voluntary Shared Leave (“Shared Leave”) allows an employee to assist another employee who has a prolonged medical condition and has exhausted all available paid leave that would otherwise force the employee to be placed on Family and Medical Leave without pay status, resulting in a loss of income and benefits.

This policy does not apply to incidental and/or short-term medical conditions. In addition, the policy is not intended to circumvent the management of essential job functions or limit management's right to deny a request for leave without pay.

5.2 Eligibility

Shared Leave may be requested by eligible employees who are either a:

- 1) Full time employee, **OR**
- 2) Regular part-time employee.

And who are currently:

- 3) On a pay for work status,
- 4) On a paid leave status, **OR**
- 5) On Family and Medical Leave.

Pay for work status is defined as a regularly scheduled work day, a scheduled day off, sick leave with pay, vacation with pay, compensatory time off, or use of accrued holiday leave.

5.3 Qualifying Conditions

Prolonged Medical Condition: A prolonged medical condition is one that requires an employee's absence from duty for a prolonged period (at least 20 consecutive work days).

The 20-day requirement may be satisfied if the employee has had previous absences for the same condition as that for which Shared Leave is currently being requested; or if the employee has had a different but prolonged medical condition within the past 12 months.

In either case, a “Certification of Health Care Provider Form” completed and signed by a health care provider, listing the condition, prognosis, and the estimated time for treatment or recovery is required as part of the application process.

Birth of a Child: The period of actual physical disability as a result of pregnancy and childbirth, as certified by a physician, is a condition covered by this policy. Eligibility also may be extended for complications related to the pregnancy and delivery. Both parents are eligible for Shared Leave for the period of disability of the mother, and the physician's statement must specify the anticipated period of disability.

NOTE: Although an employee may receive up to 12 weeks of Family and Medical Leave for birth, adoption or foster care placement, only the period of actual physical disability as a result of pregnancy or childbirth is covered under the Voluntary Shared Leave Policy. The additional "bonding time" allowed under FMLA is not eligible for Shared Leave coverage.

Non-Qualifying Conditions: Shared Leave will not ordinarily apply to short-term or sporadic conditions or illnesses. Each case must be examined and decided based on its conformity to policy intent, and must be handled consistently and fairly. Examples of non-qualifying conditions include, but are not limited to, conditions such as:

- short-term or sporadic occurrence of allergies
- short-term or sporadic absences due to contagious disease
- short-term or sporadic medical or therapeutic treatments
- an occupational illness or injury covered by the North Carolina Workers' Compensation Act.

5.4 Shared Leave Use

- a. The number of Shared Leave hours an employee can receive is equal to the projected recovery or treatment period, less the employee's combined holiday, vacation, sick leave and compensatory time balances as of the beginning of the recovery or treatment period.
- b. Program participation is limited to a lifetime maximum of 480 hours (pro-rated for regular part-time employees) and a per-leave-event minimum of 80 hours (pro-rated for regular part-time employees).
- c. The employee must exhaust all accrued compensatory time, holiday, vacation, and sick leave balances before using any donated Shared Leave.
- d. Because an employee remains in pay status while on Shared Leave, he/she continues to accrue vacation and sick leave provided he/she remains in pay status on the 15th day of the month. This leave must be exhausted as it is earned.
- e. During and after the Shared Leave period:
 - Leave transferred under this program is available for use on a current basis, or may be retroactive for up to 30 calendar days from the date the recipient's application is qualified by the Shared Leave Committee.
 - Donated leave cannot replace leave already used by the employee.
 - Each Division/Service Area is responsible for initiating personnel actions when a Shared Leave recipient exhausts all forms of paid leave and Family and Medical Leave.
- f. Shared Leave shall not be used on an intermittent basis.
- g. If an employee's actual recovery or treatment period is less than the projected recovery or treatment period, and any donated Shared Leave remains in the employee's leave account, then the remaining Shared Leave shall revert to the donors of the Shared Leave pursuant to Section 5.6 of this Article.

5.5 Application for Shared Leave

An application to receive leave must be reviewed by the employee's Division Director/Executive Director before it is forwarded to the Shared Leave Committee for action. Approval for Shared Leave is not guaranteed.

Employees and their supervisors should review the Family and Medical Leave, Voluntary Shared Leave, and all paid leave policies to understand the applicability of these programs to the employee's specific situation.

In order to apply for Shared Leave:

1. The employee must complete and submit to his/her immediate supervisor for review:
 - a "Request for Shared Leave Form",
 - Included with the Request for Shared Leave Form, the employee must provide a list of all verbal warnings, written warnings, and letters of concern issued to them within the past five (5) years regarding the abuse of sick leave.
 - a "Family Medical Leave Request Form," and
 - a "Certification of Health Care Provider Form" completed and signed by a health care provider.
2. The employee's immediate supervisor must:
 - Verify that the medical leave request is qualified under the Family and Medical Leave Act.
 - Verify all verbal warnings, written warnings, and letters of concern regarding abuse of sick leave that were issued to the employee within the past five (5) years.
 - Verify improvement by the employee in managing sick leave usage after having received a verbal warning, written warning, or letter of concern.
 - Complete the "Request for Shared Leave Form for Immediate Supervisor."
 - Review all forms of paid leave available to the employee and verify on the "Request for Shared Leave Form" the amount of Shared Leave needed to fulfill the employee's request.
 - Obtain a completed "Shared Leave Form for Division Director/Executive Director" from the employee's Division Director or Executive Director, whichever is applicable.
 - Forward the employee's "Request for Shared Leave Form", the "Shared Leave Form for Immediate Supervisor", the "Shared Leave Form for Division Director/Executive Director," and all required supporting documents to the FML Coordinator for Shared Leave Committee action.

An updated "Certification of Health Care Provider Form" is required from the applicant if donations of leave are still being requested 60 days after the "Request for Shared Leave Form" is approved by the Shared Leave Committee.

The recipient is responsible for making sure that all information submitted in their request is complete and concise. If additional information is required, it could cause a delay in the review process.

If the employee's Shared Leave Request is denied and the employee's circumstances change from those circumstances under which the Shared Leave Request was originally submitted, the employee may reapply for Shared Leave.

5.6 Maximum Limit of Shared Leave Donation

Any employee of Union County may voluntarily donate a portion of their accumulated holiday, vacation or sick leave (not to exceed 40 hours) to the sick leave account of another employee of Union County who is qualified for Shared Leave.

Any Shared Leave donations not used by the recipient shall revert to all donors of the leave on a prorated basis.

5.7 Donating Shared Leave

Employees donating leave shall have the complete understanding that once donated, their leave will be deducted from the specified leave account.

Compensation will not be provided in exchange for donated leave.

Employees must maintain a minimum of 80 hours sick leave in their own sick leave account before leave may be donated.

To donate leave for an employee's Shared Leave Request the donating employee must complete the "Donation of Shared Leave Form" and submit it to Human Resources for processing.

The FML Coordinator verifies the donation information and completes the transfer process.

The FML Coordinator will send a letter to the donor indicating the number of hours that will be subtracted from their leave balance and added to the recipient's Shared Leave balance.

The FML Coordinator will update the recipient's sick leave balance with donated leave.

If two or more requests for Shared Leave are approved simultaneously, any donated leave will be distributed equally among the recipients.

5.8 Shared Leave Committee

A committee shall be appointed by the County Manager consisting of a minimum of seven (7) appointed members. A minimum of five (5) appointed members are required to establish a quorum and determine eligibility.

The Shared Leave Committee shall review each Shared Leave request to determine if it meets the qualifying requirements for eligibility as follows:

1. Does a prolonged medical condition exist?
2. Does a physical disability exist as a result of pregnancy and childbirth?
3. Has the employee exhausted all available forms of paid leave?
4. Will the circumstances otherwise force the employee to be placed on Family and Medical Leave without pay status or lose employment?

5. Has the employee's immediate supervisor reviewed the request and supporting documents?
6. Has the employee made a concerted effort to avoid a leave without pay situation?
7. Has documentation of a true impending hardship been provided?

The FML Coordinator will notify the applicant of the Shared Leave Committee's decision regarding eligibility.

Once the request for use of Shared Leave is determined to be qualified, a bulletin shall be posted by the FML Coordinator announcing the need for Shared Leave Donations. The bulletin shall describe the general circumstances of the need and the procedures for donating the leave.

SECTION 6

Family and Medical Leave Policy

Revised April 6, 2009

6.1 Purpose

In accordance with the Family and Medical leave Act of 1993, effective August 5, 1993, and as amended, Union County shall grant each eligible employee leave entitlements consistent with the provisions outlined in the Act. The terms used in this Section which are defined in the Act shall have the meanings assigned to them therein.

6.2 Eligibility

To be eligible for leave under this Section, the employee must:

- (1) Have been employed by Union County for at least 12 months; and
- (2) Have worked at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.

6.3 Manner of Accumulation

Family and Medical Leave

The eligible employee is entitled to a total of 12 work weeks of unpaid leave during any 12-month period. The term "12-month period" shall be defined as a rolling 12-month period measured backward from the date an employee uses any FMLA leave (except that such measure may not extend back before August 5, 1993).

Military Family Leave

Care Giver Leave

The eligible employee is entitled to a combined total of 26 work weeks of unpaid leave during any 12-month period. The term "12-month period" shall be defined as a rolling 12-month period measured backward from the date an employee uses any FML.

Qualifying Exigency Leave

The eligible employee is entitled to a combined total of 12 work weeks of unpaid leave during any 12-month period. The term "12-month period" shall be defined as a rolling 12-month period measured backward from the date an employee uses any FML.

6.4 Qualifying Reasons for Family and Medical Leave

Family and Medical Leave shall be granted for the following reasons:

- 1) The birth of a son or daughter, and to care for the newborn child;
- 2) The placement with the employee of a son or daughter for adoption or foster care;
- 3) The care of an employee's spouse, son, daughter, or parent with a serious health condition; or
- 4) A serious health condition that makes the employee unable to perform the essential functions of the employee's job.

6.5 Qualifying Reasons for Military Family Leave

Military Family Leave shall be granted for the following reasons:

- 1) The care of a spouse, son, daughter, parent or next of kin who is a military service member recovering from a serious illness or injury sustained in the line of active duty. Up to 26 weeks may be granted.
- 2) Any qualifying exigency arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty, or has been notified of an impending call to active duty status, in support of a contingency operation. Up to 12 weeks may be granted.

6.6 Requesting Use of Family and Medical or Military Family Leave

Pursuant to this Article, it is the duty of each employee to indicate the nature of circumstances bringing about an absence from work. If the absence exceeds three (3) consecutive work days, the employee is required to submit a FML Request Form to their immediate supervisor. (Administrative Note: The FML Employer Response Form must be completed and returned to the employee within five (5) business days.)

Planned

In cases where the need for leave is foreseeable, such as planned medical treatment, the employee is required to provide the immediate supervisor a FML Request Form and a Certification of Health Care Provider Form at least thirty (30) days in advance of the date the leave is to begin.

In cases of leave for planned medical treatment, the employee is required to make a reasonable effort to schedule the treatment so as not to unduly disrupt the operations of his or her department.

Unplanned

In cases when circumstances do not permit a thirty (30) day notification, the employee must follow the departmental or County reporting to work policy, whichever is applicable, and provide at least verbal notification to the immediate supervisor of when the need for leave becomes known to the employee. The notice shall be sufficient to make the immediate supervisor aware that the employee needs FML-qualifying leave, and the anticipated timing and duration of the leave.

6.7 Health Care Provider's Certification for Medical Leave

The Certification of Health Care Provider Form for the employee's or family member's serious health condition must be submitted to the employee's immediate supervisor within fifteen (15) calendar days of the request for verification on a form prescribed by the County.

In cases of an employee's serious health condition, it is important for the Health Care Provider to be familiar with the tasks and physical requirements of the employee's work in order to give specific feedback on the employee's ability to perform essential functions of the job. At the time Medical Leave is requested, the immediate supervisor shall provide the employee with both a copy of his/her job description and the Certification of Health Care Provider Form.

The County may require re-certification if:

- 1) Circumstances or length of requested leave described by the original certification have changed significantly,
- 2) The County receives information that casts doubt upon the continuing validity of the certification.

6.8 Coordination of Leave

To the extent the employee has earned and accrued paid sick leave, the employee shall be required to use all accumulated sick leave for any (otherwise) unpaid Family and Medical or Military Family Leave.

Upon use of all earned sick leave, the employee may elect, but is not required to use accrued holiday leave or vacation leave for the remaining balance of any (otherwise) unpaid Family and Medical or Military Family Leave.

When an employee has used all accrued paid sick leave, the employee may then request the use of accrued compensatory time off during the qualified Family and Medical or Military Family Leave event. Compensatory time off is not a form of paid benefit leave. In accordance with the provisions of the Family and Medical Leave Act, any compensatory time off taken during a qualified event shall not be deducted from the employee's remaining balance of Family and Medical or Military Family Leave.

6.9 Maternity

Time taken away from work for maternity-related reasons shall be considered a qualified Family and Medical Leave event.

At any stage of the pregnancy, a supervisor or Department Head may request a doctor's certificate stating that the employee is still permitted and capable to perform all tasks and duties required by their position.

If a pregnant employee holds a position that requires physical demands more strenuous than permitted by her attending physician and therefore cannot perform the tasks and duties of the position for an amount of time greater than is provided through Family and Medical Leave and her accrued paid leave, the County Manager may hold the position open or fill the position with a part-time or temporary employee until the full time employee is released by her physician for return to duty.

The employer may require the employee to transfer temporarily, during the period of time that the intermittent or reduced leave schedule is required, to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than does the

employee's regular position. If an alternative position is not available, the employee will be placed on inactive status leave without pay during this time.

While an employee is on certified FML, the County will continue to pay the County's portion of the employee's monthly health insurance premium. The employee will continue to be responsible for any premium for dependent coverage. If the FML is unpaid, the employee shall pay to the County his or her premium for dependent coverage no later than the 20th day of the following month.

6.10 Returning to Work

The County may request a periodic report from the employee or certifying physician regarding the employee's status with respect to returning to work. These may be made by telephone, written correspondence or sent by fax.

Prior to returning to work, each employee shall provide a fitness-for duty certification from the health care provider.

6.11 Failure to Return to Work

Failure to return to work within three (3) consecutive workdays after expiration of the approved Family and Medical or Military Family Leave shall be considered a voluntary resignation.

If an employee fails to return to work after the employee's leave entitlement has been exhausted or expires, the employee shall reimburse the County for the monthly health insurance premiums paid, unless the reason the employee does not return is due to:

- (1) The continuation, recurrence, or onset of a serious health condition which would entitle the employee leave under FMLA; or
- (2) Other circumstances beyond the employee's control.

When an employee fails to return to work because of the continuation, recurrence, or onset of a serious health condition, the employee shall provide medical certification of the employee's or family member's serious health condition.

SECTION 7

Workers' Compensation

Revised July 25, 2005

7.1 Purpose

The North Carolina Workers' Compensation Act provides for the payment of medical expenses related to occupational injury or disease, and wage replacement compensation after an initial waiting period of seven (7) days.

7.2 Medical Treatment

Timely reporting and treatment of an occupational injury or disease is important to the safety and welfare of every employee. Employees should immediately notify their supervisor or the Risk Manager when a job-related injury or disease occurs, without regard to severity.

Medical services for work-related injuries or diseases must be obtained from the County's designated and authorized medical provider unless the injury is an emergency and requires immediate attention and a designated provider is not immediately available.

Supervisors shall submit a written "Employee Injury Report" and "Supervisor's Injury Report" to the Risk Manager within 48 hours of being notified by an employee that a job-related injury or disease occurred.

7.3 Wage Replacement

Weekly wage replacement benefits will be paid from the County's Workers' Compensation Program equal to 66 2/3 percent of their average weekly wage calculated on the basis of the past twelve (12) months until the date they are released to return to work by the treating physician. This amount shall not exceed the maximum established by the State law.

During the initial seven-day waiting period, wage replacement benefits will not be paid from the County's Workers' Compensation Program. An employee may elect to receive regular compensation by using accrued sick leave, holiday leave, vacation leave or compensatory time off. If an employee is unable to return to work after the seven-day waiting period, the employee will be considered to be on leave without pay for the purposes of earning and accruing service credit, retirement contributions, sick leave, vacation leave, or paid holidays.

An employee is considered to be on a leave without pay status beginning with the first scheduled work hour that wages or sick leave is not paid and until the date they are released to return to work by the treating physician. The County shall continue to provide the employer's portion of group medical and dental insurance benefits as required by Federal or State Acts. Payments for dependent insurance coverage, voluntary deductions, and wage garnishments remain the responsibility of the employee.

After the initial seven-day waiting period, accrued leave shall not be paid or substituted for any reason related to time away from work for the treatment of an occupational injury or disease.

After the initial seven-day waiting period, if an employee is released by the treating physician to return to work, the employee may seek necessary intermittent, follow-up medical care for an on the job injury or disease during scheduled work time. The employee shall notify their supervisor on the day a medical or

physical therapy appointment is scheduled. Every effort should be made by the employee to schedule appointments that do not unduly disrupt the productive work of the department.

An intermittent, partial day away from work, for the purpose of keeping medical or physical therapy appointments, shall be reported as time worked on the payroll time card and noted by the employee and supervisor as time taken for necessary follow-up medical care for a job related injury or disease.

An intermittent, full day away from work, for the purpose of keeping medical or physical therapy appointments, shall be reported as leave without pay on the payroll time card and noted by the employee and supervisor as time taken for necessary follow-up medical care for a job related injury or disease. If the seven-day waiting period has been met, wage replacement benefits will be paid from the County's Workers' Compensation Program equal to 66 2/3 percent of their average wage calculated on the basis of the past twelve (12) months. This amount shall not exceed the maximum established by the State law.

The employee may be eligible to receive a wage loss payment for the seven-day waiting period from the County's Workers' Compensation Program if the disability exceeds 21 days. If the employee used accrued sick leave, holiday leave, vacation leave or compensatory time off during the seven-day waiting period, the employee may choose to either receive wage replacement benefits from the County's Workers' Compensation Program equal to 66 2/3 percent of their average weekly wage or elect to have the accrued leave hours or compensatory time off used during the seven-day waiting period credited back to his/her accrual(s).

7.4 Coordination with the FMLA

Time taken away from work, due to a serious health condition, related to an occupational injury or disease shall be designated as qualified medical leave for eligible employees under the Family and Medical Leave Act (FMLA).

The rolling 12-week Family and Medical leave entitlement of eligible employees shall be reduced concurrently with the amount of all paid or unpaid time taken away from work for serious health conditions related to occupational injury or disease.

7.5 Temporary Light Work Assignments

An employee who is temporarily disabled from their regular job as a result of an on-the-job injury may be able to be productive and return to a light work assignment during the temporary disability period.

Where possible, each Department shall provide productive, light work for employees who are temporarily disabled from their regular job for an on-the-job injury. All such light work assignments will be within the physical limitations described by an authorized physician.

- a. The treating physician under the County's Workers' Compensation Program shall be encouraged to release temporarily disabled employees to a light work status and describe the employee's physical limitations in sufficient detail to enable the County to determine a suitable work or task assignment.
- b. The employee's regular work unit shall attempt to provide a work assignment within the physical limitations described by the authorized treating physician.
- c. If the regular work unit is unable to assign suitable work, Risk Management will be contacted to determine if there are suitable work assignments in other work units. If so, the employee may be temporarily assigned to the other work unit. The employee's time sheet will be maintained by

his/her regular work unit and coded "MDWC" (Medical Disability Worker's Compensation) and his/her paycheck will continue to be distributed to his/her regular work unit.

- d. The employee continues on his/her regular pay status during the light duty period. The employee's wage and benefit costs continue to be charged in his/her permanent work unit and coded "MDWC" even though he/she may be temporarily assigned to another work unit for light duty work.
- e. If the employee refuses the light duty position, he/she will no longer qualify for indemnity payments from workers' compensation. The employee may not use accrued paid benefit leave if a light duty position has been offered and rejected. An employee is considered to be on a leave without pay status beginning with the first day the light duty position is rejected until the date they are released to return to work by the treating physician. Unpaid Family and Medical leave shall continue to run concurrently with the workers' compensation leave without pay status until either the employee is able to return to the same or substantially equivalent job or until the 12-week Family and Medical Leave entitlement is exhausted.
- f. Upon release to regular work without restrictions, the employee will be returned to his/her permanent work unit and his/her regular job.
- g. Use of temporary light work assignments is not intended to include other sickness or injury experienced away from work by the employee.
- h. Each Department Head shall be responsible for the review and coordination/ implementation of temporary light work assignments.

SECTION 8

Leave Without Pay (Non FMLA)

8.1 Purpose

Leave without pay is an administrative decision and may be granted for up to, but not to exceed, 40 scheduled work hours in a rolling 12-month period, by the Department Head.

Supervisors shall consider the occurrence of peak workload periods, employee's length of service and other factors relevant to the operation of the department and the personal circumstances of the employee when reviewing a leave without pay request.

If operational needs do not permit the approval of simultaneous requests for leave, preference in granting the request shall be based on the respective seniority of the employees.

Supervisors *must* allow leave without pay, if the employee's appearance is compelled by a subpoena or summons for a matter unrelated to their position with Union County.

8.2 Eligibility

All non-exempt full time employees and regular part-time employees.

8.3 Coordination of Leave

Prior to requesting leave without pay, the employee must have exhausted all forms of accrued paid leave which would have otherwise covered the requested leave.

Failure to report for duty at the expiration of an approved leave without pay event shall be considered a resignation.

A non-exempt employee who is granted leave without pay shall be responsible to pay the prorated premium cost for all employment benefits otherwise paid for by the County. Example: employee and dependent premiums for medical, prescription, and dental insurance coverage.

SECTION 9

Severe Weather and Emergency Conditions

9.1 Purpose

As a local government, the essential services of Union County must be provided even during periods of severe weather or emergency conditions. The County is committed to maintaining full service levels to the extent possible.

9.2 Announcements and Notifications

- a. When conditions warrant, the County Manager will determine and announce all decisions to close, delay, or cancel activities of the County.
- b. When the County's schedule is altered, operational status will be available through news media outlets, the Union County Government Center main telephone number, and via the Internet.
- c. If severe weather or emergency conditions develop during the day, employees will be notified of closings through normal supervisory channels.

9.3 Reporting For Work

All employees are expected to make the necessary advanced preparations and be prepared to report each scheduled workday.

Essential Employees are expected to report for work on their regular schedule in spite of any closing, delay, or cancellation. Generally these employees hold positions designated as "required for the essential operations of the County." Essential County operations are designated as but not limited to: Sheriff's Office and Jail, Emergency Communications, Transportation Administration, Emergency Management, Fire Marshal, Social Services Group Home and Emergency Sheltering, Water and Wastewater Field Operations, Property Management, and Fleet Services.

Non-Essential Employees whose presence are not generally required for the essential operations of the County are excused from reporting during an official closing, delay, or cancellation unless they are notified by an appropriate supervisor that they must report for work to support the necessary operations of County Government in spite of the closing, delay, or cancellation of other activities. Such determinations and notifications are made on a situation-specific basis. Employees are responsible for ensuring they can be reached via valid contact information.

9.4 Compensation and Recording Keeping

Essential Employees who are required to report to work during a period of severe weather or emergency conditions will receive their base rate of pay. FLSA overtime rules apply. Overtime may be compensated as direct pay or compensatory time and requires the approval of the employee's department director prior to overtime being worked.

Non-Essential Employees will not forfeit pay for regularly-scheduled work hours missed due to official closing, delay, or cancellation, nor will they be required to make up the work time or report such time as accrued leave.

When Non-Essential Employees report for work to support the necessary operations of County Government during a period of severe weather or emergency conditions, they will receive their base rate of pay. FLSA overtime rules apply. Overtime may be compensated as direct pay or compensatory time and requires the approval of the employee's department director prior to being worked.

- a. Employees whose shifts or assignments are not affected by the official closing, delay, or cancellation will receive their normal compensation for work performed.

9.5 Inclement Weather Conditions

- a. Employees who do not report to work during periods of inclement weather, when County departments and agencies are operating under a normal work schedule, must account for the absence by using accrued holiday leave, vacation leave or compensatory time off equal to the scheduled workday. In the absence of any formal department or agency guideline for notification of an unplanned leave event, the employee is required to provide notice of an absence from work no later than 30 minutes after reporting time.
- b. The County acknowledges that departments may allow employees to work a flexible schedule. However, when the County is operating on a delayed-opening schedule, all flexible scheduling is suspended. Non-essential employees shall report for work during the hours designated by the County Manager.
- c. If an employee desires to leave work early due to inclement weather conditions, approval must first be obtained from the supervisor prior to leaving the assigned work station. The employee must account for the absence by using accrued holiday leave, vacation leave or compensatory time off equal to the number of hours not worked in the scheduled workday.

SECTION 10

Civil Leave

10.1 Purpose

Civil leave is a non-accruing paid leave for use when an eligible employee is summoned for jury duty.

10.2 Eligibility

Any employee of the County may be granted paid civil leave during scheduled work hours to fulfill a summons to jury duty.

No adverse employment action shall occur as a result of employee use of civil leave.

10.3 Work Related Legal Proceedings

Time spent in legal proceedings by employees acting within the official scope and capacity of their Union County employment is considered time worked and is *not* charged to civil leave or accrued paid leave.

10.4 Non-Work Related Legal Proceedings

Employees may use accrued holiday, vacation leave or compensatory time balances for non-work related legal proceedings that do not qualify for paid civil leave.

10.5 Requesting Use of Civil Leave

Employee Responsibilities

- a. Employees are responsible for giving as much notice as possible to their supervisors in advance of the appearance date required by a summons to jury duty.
- b. Employees are responsible for providing appropriate documentation as directed by their supervisors concerning events and travel time needed.
- c. Employees whose duties under civil leave conclude in time to complete a work shift should either return to work or request approval to charge the remainder of the shift to an appropriate paid leave type such as accrued holiday, vacation leave or compensatory time.

Employer Responsibilities

- a. Supervisors are responsible for permitting employees to use leave in accordance with this Section and for establishing appropriate practices for verifying the reasons for use of civil leave.
- b. Whenever possible, agencies should reschedule employees who regularly work an evening or night shift to a day shift schedule during the periods when they are required to appear in legal proceedings.

10.6 Coordination of Civil Leave

- a. The employee is entitled to his/her regular compensation plus any compensation received for jury duty.
- b. The employee must turn over to the County any witness fees or travel allowance awarded for court appearances in connection with official duties.

SECTION 11
Administrative Leave

11.1 Purpose

Union County encourages the donation of blood to the American Red Cross and to hospitals.

11.2 Eligibility

Full-time and regular part-time employees.

11.3 Leave Rate

Up to three (3) paid hours of leave once every two (2) months may be granted.

11.4 Requesting Use of Administrative Leave

This leave may be approved by the supervisor or Department Head providing it does not cause disruption of work in the unit or department.

11.5 Coordination of Administrative Leave

- a. Administrative leave may only be granted for donating blood.
- b. While the County supports other medical donations, those requiring more time than allowed above will require the employee to use accumulated sick leave, holiday leave, vacation leave or compensatory time off.

SECTION 12

Leave for Parental Involvement in Schools

12.1 Purpose

Parent involvement is an essential component of school success and positive student outcomes. §N.C.G.S. 95-28.3 establishes this leave, so that employees may attend or otherwise be involved at his/her child's school.

12.2 Eligibility

Any employee who is a parent, guardian, or person standing in loco parentis of a school-aged child.

12.3 Leave Rate

Up to four (4) unpaid hours of leave per child may be granted each school year.

12.4 Requesting Use of Parental Involvement in Schools Leave

For the purpose of this Section, "school" means any (i) public school, (ii) private church school, church of religious charter, or nonpublic school described in Parts 1 and 2 of Article 39 of Chapter 115C of the General Statutes that regularly provides a course of grade school instruction, (iii) preschool, and (iv) child care facility as defined in G.S. 110-86(3).

- a. Leave for Parental Involvement in Schools under this Section is subject to the following conditions:
 - 1) The leave shall be at a mutually-agreed-upon time between the supervisor and the employee.
 - 2) The employee should provide his/her immediate supervisor with a written request for the leave at least 48 hours before the time desired for the leave.
 - 3) The employee may be required to provide written verification from the child's school that the employee attended and was otherwise involved at that school during the time of the leave.
- b. Supervisors shall not take an adverse employment action against an employee who requests or is granted leave under this Section.

12.5 Coordination of Parental Involvement in Schools Leave

An employee may request to use accrued holiday leave, vacation leave or compensatory time off for any (otherwise) unpaid leave for Parental Involvement in Schools.

SECTION 13

Educational Leave

13.1 Purpose

Education Leave is a "Partnership in Learning." It is a mutually-beneficial learning opportunity agreed upon by the employee and the employer. Education Leave provides the opportunity for employees to enhance their knowledge, skills and abilities in areas identified by the department as critical to existing or future needs.

13.2 Employee Eligibility

To be eligible for Education Leave, employees must demonstrate:

- a. competent performance in all areas of their present job
- b. initiative and success with respect to their self-development
- c. potential for increased responsibilities.

To remain eligible for Education Leave, employees must continue their enrollment and maintain satisfactory performance in their course of study.

13.3 Continuing Education job skill development programs

Education Leave with Pay

Education Leave with pay may be approved when:

- The training is employer-requested or prescribed.
- The training is directly related to job requirements.

An employee may be granted educational leave to participate in a job-related short course, such as an update, not-to-exceed ten (10) consecutive working days. The course must be directly job-related and must be intended to enhance the performance of present job duties. This leave must be approved by the Department Head prior to the commencement of the course.

A written request from the employee to the Department Head must include the details involving cost to the County, nature of training, use of County time, use of County funds, and arrangements for lodging, meals and travel. An employee must also stipulate, in detail, the anticipated effects on work performance as a direct result of such training. The employee will receive his/her regular compensation during such approved educational leave.

No compensation or reimbursement will be given for unapproved leave.

No compensation or reimbursement will be given if the course is taken for academic credit.

SECTION 14
Military Leave
Revised 10.20.03

Union County is committed to protecting the job rights of employees absent on military leave. In accordance with federal and state law, it is the County's policy that no employee will be subjected to any form of discrimination on the basis of his/her membership in or duty to perform service for any of the Uniformed Services of the United States. No employee will be denied reemployment, promotion, or other benefits of employment on the basis of such membership. Furthermore, no employee will be subjected to retaliation or adverse employment action because of his/her rights exercised under this policy.

The County commends the dedication and self sacrifice of the employee Guard and Reserve members to national defense. It recognizes the hardships experienced by these employees and their families for the public good.

Inactive Duty Training Leave (IDT)

14.1 Purpose

Inactive Duty Training Leave provides employees protection against loss of income during absences from work due to regularly scheduled annual military unit training periods, additional military training periods, and equivalent training as may be required by a National Guard or Reserve Military unit.

This Section DOES NOT apply to Active Duty Training (ADT) or extended periods of active duty in the uniformed services.

14.2 Eligibility

IDT Leave may be granted to an employee who has a uniformed service obligation in either a National Guard or Reserve Military unit, and is a

- 1) Full time employee, **OR**
- 2) Regular part-time employee.

and who is currently:

- 1) On a pay for work status, **OR**
- 2) On a paid leave status.

Pay for work status is defined as a regularly scheduled work day, a scheduled day off, sick leave with pay, vacation with pay, compensatory time off, or use of accrued holiday leave.

14.3 Manner of Leave Accumulation

- a. For the purpose of using IDT Leave, the twelve (12) month County fiscal period between July 1 and June 30 is established as the leave year.
- b. Eligible employees shall be granted up to ten (10) work days of paid IDT leave in any leave year.

- c. IDT Leave with pay shall only be granted in lieu of a regularly scheduled workday.
- d. The number of hours of IDT Leave granted each day shall equal the number of work hours for which the employee is regularly scheduled on that day.

14.4 Requesting Leave

- a. Employees should request IDT Leave in advance of the proposed leave period to give supervisors maximum opportunity to arrange schedules to accommodate the employee's absence and adequately staff the workplace.
- b. Once orders are received for inactive duty training, the employee shall provide a copy to their immediate supervisor within three (3) working days. The supervisor shall forward a copy of the orders to the Personnel Department.

14.5 Coordination of Leave

- a. If IDT Leave extends beyond ten (10) work days, the employee may request that the work schedule be rearranged to accommodate additional IDT Leave. If the department is unable to grant this request, the employee may elect to use accrued holiday, compensatory time or vacation leave, or be placed on leave without pay status.
- b. While taking IDT Leave, if the employee becomes ill or disabled and is under orders and compensated by the Federal or State Government, he/she is not eligible for paid sick leave from the County during that period.
- c. Payment for IDT Leave hours in excess of the employee's scheduled work hours shall not be an option.
- d. Pay in lieu of IDT Leave shall not be an option.
- e. IDT Leave cannot be used for any other purpose.

Military: Active Duty Leave

14.6 Purpose

To provide for the County's administration of the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), enacted October 13, 1994 (Title 38 U.S. Code, Chapter 43, Sections 4301-4333, Public Law 103-353), that governs the duty of Union County related to certain rights and benefits of its eligible employees who temporarily leave their jobs as a result of their voluntary or involuntary service in the United States uniformed services.

Active Duty Leave (ADL) may represent a call to active duty status or Active Duty Training Leave required by the employee's membership in a military unit. ADL may include State or Federal orders, or mobilization for Natural Disaster response.

14.7 Eligibility

ADL may be granted to an employee who has a uniformed service obligation in either a National Guard or Reserve Military unit; and is a

- 1) Full-time employee, **OR**
- 2) Regular part-time employee.

and who is currently:

- 3) On a pay for work status, **OR**
- 4) On a paid leave status.

Pay for work status is defined as a regularly scheduled work day, a scheduled day off, sick leave with pay, vacation with pay, or compensatory time off, or use of accrued holiday leave.

14.8 Manner of Leave Accumulation

- a. For the purpose of using ADL, the twelve (12) month County fiscal period between July 1 and June 30 is established as the leave year.
- b. Eligible employees shall be granted up to twenty (20) days of paid leave for any ADL in the leave year.
- c. ADL with pay shall only be granted in lieu of a regularly scheduled workday.
- d. The number of hours of ADL granted each day shall equal the number of work hours for which the employee is regularly scheduled on that day.

14.9 Requesting Leave

- a. Employees must give advance written or verbal notice that he/she will be serving in the uniformed services.
- b. Once orders are received for active military service, the employee shall provide a copy to their immediate supervisor within three (3) days. The supervisor shall forward a copy to the Personnel Department.
- c. Employees may elect to use any accrued holiday, vacation leave or compensatory time off for the period between the date an order is received for active military service and the date they report for duty.
- d. Before the last day of scheduled work, the employee shall report to the Personnel Department for an exit interview on their employment status and benefits.

14.10 Coordination of Leave

- a. If ADL extends beyond twenty (20) work days, the employee may elect to use accrued holiday, compensatory time or vacation leave, or be placed on leave without pay status.

- b. While taking ADL, if the employee becomes ill or disabled, and is under orders and compensated by the Federal or State Government, he/she is not eligible for paid sick leave from the County during that period.
- c. Payment for ADL hours in excess of the employee's scheduled work hours shall not be an option.
- d. Pay in lieu of ADL shall not be an option.
- e. ADL cannot be used for any other purpose.

14.11 Pay Differential

When military service extends beyond the paid ADL granted by the County and the employee elects an unpaid leave status from the County for the remainder of military duty, the employee may be eligible for a wage supplement from the County.

To qualify for the wage supplement, the employee's military base hourly wage must be less than their regular base hourly wage paid by the County.

The difference between the greater County base hourly wage and the lesser Military base hourly wage will be paid as a wage supplement. The wage supplement will be paid for a period, not to exceed six (6) months from the date "active duty" paid leave is exhausted.

The employee shall provide the Personnel Department with copies of all eligible active duty payroll stubs for the qualifying unpaid period of military leave. The wage supplement will begin upon receipt of the first qualifying active duty payroll stub. Direct deposit shall be mandatory.

14.12 Leave Accruals

Employees on pay status while using ADL shall continue to accumulate vacation, sick, and holiday leave.

14.13 Health/Dental Insurance

When an employee's active military duty is for one (1) month or less, the County will continue to pay the employer portion of the medical and dental benefits for employee and dependent coverage. This coverage accounts for the County paid ADL (twenty (20) paid workdays), and for qualifying employees, will extend for the six (6) month wage supplement period of pay.

Service members who are on duty for more than one (1) month, and elect an unpaid leave status for the remainder of military service, may elect to continue the employee/dependent medical and dental coverage for up to 24 months at the employee's expense at 102% of the overall (both employer and employee) premium rate.

If military health coverage is elected for employee and/or dependent(s), upon active duty discharge and return to work, the employee may elect to re-enroll in individual and/or dependent coverage in the employee group plans with no waiting period.

Employees may elect to pay the dependent premiums for the month in which they return to work in order to obtain coverage for that entire month, otherwise coverage will be reinstated upon the date of return to work at a pro-rated premium amount for that month.

Failure to remit premium payment in a timely manner could result in termination of coverage.

14.14 401(k)

County 401(k) contributions will continue while the service member is on active pay status.

If the employee is on an unpaid status, Union County will resume contributions to the employee's 401(k) plan when the employee returns to active pay status from military service. The County will calculate and contribute the employer contributions to the employee's 401(k) account for the period of unpaid military service, not including any interest that would have been earned, upon receipt of the discharge paperwork (DD-214).

The returning employee will have up to three (3) times their period of service or a maximum of five (5) years to make contributions that may have been missed while in military service.

14.15 Retirement

Employee contributions to the Local Government or Law Enforcement Employees' Retirement System continue while the service member is in active pay status.

Employees called to active duty are eligible for free service credit by the North Carolina Local Government or Law Enforcement Employees' Retirement system for any time spent in active duty. Employees will be treated as not having incurred a break in service for vesting and accrual purposes. In order to receive this "free" credit upon return from active duty, the employee must provide a copy of the (DD-214) discharge paperwork to the Retirement System and obtain confirmation from the system.

Confirmation should be provided to the Personnel Department.

SPECIAL NOTICE: Employees may be eligible to purchase credit for prior military service with the Retirement System. It is the employee's responsibility to determine eligibility, complete the required forms, and confirm a purchase of this nature with the Retirement System. In order to receive credit for a purchase of prior military service, the employee must provide a confirmation from the Retirement System of the purchase with an effective date and amount of time purchased. Adjustments made to the employee's vacation accrual rates as a result of a purchase of credit will be effective upon the date the employee successfully delivers the necessary information to the Personnel Department.

14.16 Reemployment

Employees returning from military service are governed by the following provisions for reemployment rights and maintenance of employment benefits:

- Individual must have held a civilian job with the employer;
- Individual must have given advance notice (written or verbal) of their military service to the employer;
- Period of service must not have exceeded five (5) years;
- Separated from military service under honorable conditions; and
- Report for reemployment or request reemployment within certain time periods.

Upon completing service in the uniformed services, the employee must notify Union County of his or her intent to return to employment by either reporting to work or submitting a timely request for reemployment.

Employees returning from military service should report or request reemployment (verbal or written request) within the following time period after the end of service:

- Employees performing military service for fewer than 31 days must report for reemployment on the first regularly scheduled work day following the completion of service and the expiration of a twenty-four (24) hour “rest period” to provide for safe transportation back to the employee’s residence.
- Employees serving more than 30 but less than 181 days must request reemployment within fourteen (14) days after completion of service.
- Employees serving more than 180 days must request reemployment within ninety (90) days after completion of service.

The employee is responsible for returning to work within the time limits defined above and providing (DD-214) discharge paperwork within three (3) days of receipt to their immediate supervisor. The supervisor should forward a copy to the Personnel Department.

Upon returning to work, the employee will report to the Personnel Department for information regarding benefit accruals and reactivation.

The employee will be placed in a position equivalent to the one held prior to military leave, or one of like seniority, status, and pay depending on the length of military service.

ARTICLE VII. SEPARATION

Revised 01.20.09, February 18, 2013

SECTION 1

Types of Separation

All separations of employees from positions in the service of the County shall be designated as one of the following types: resignation, reduction in force, disability, retirement, dismissal, death, unavailability when leave is exhausted, job abandonment, loss of or failure to maintain credentials, or other. Disciplinary action, suspension and dismissal will be addressed in Article VIII. Upon separation from a County position, the employee shall return IMMEDIATELY to his/her supervisor or Department Head his/her employee identification card, all County property and all keys issued to the employee during their services.

SECTION 2

Resignation

A minimum of two (2) weeks notice is expected of all resigning personnel. Any employee failing to give at least the required notice is not eligible to receive pay in lieu of vacation or accrued holiday unless extreme extenuating circumstances can be mutually agreed upon by the Department Head and the County Manager.

SECTION 3

Disability

An employee may be separated for disability when the employee cannot perform the required duties because of a physical or mental impairment. Action for disability separation may be initiated by the employee or the County, but in all cases consideration for disability separation shall be supported by medical evidence by a competent physician. The County may require a physical and/or mental examination at its expense and by a physician of its choice. Before an employee is separated for a disability, if required by the Americans with Disabilities Act or other applicable law, the County will make an effort to provide a reasonable accommodation for the employee, including making a reasonable effort to locate alternative positions within the County's service for which the employee may be suited.

SECTION 4

Death

The date of death shall be recorded as the separation date for computing compensation due to the employee's estate.

SECTION 5

Reduction in Force

For reasons of budgetary constraints, organizational needs, or decreased work load, the County Manager has the authority to separate employees and to eliminate position classifications within a department on the basis of reduction in force. The County Manager will base retention of employees in classes affected on (i) the type of appointment, (ii) the relative efficiency, skills, knowledge, productivity, and value to the department, and (iii) the length of service. The relative weight to be accorded each of these considerations will be determined by the County Manager.

In implementing a reduction in force, the County Manager will endeavor to provide employees with such notice of separation as may be reasonable under the circumstances, provided that the County Manager may

give notice of immediate separation in the event severance compensation is made available to such employees. Union County is under no obligation to provide severance compensation to employees separated by a reduction in force, but if provided, such severance shall be in accordance with, and pursuant to, an Addendum to this Resolution. If an employee separated pursuant to a reduction in force is rehired by the County within twelve (12) months of the separation date, it will be deemed that no break in service occurred for purposes of the continuity of service requirements in Article XI, Section 5 of this Resolution; provided, however, that only time actually worked shall count toward the required number of years of creditable service. The scope of any grievance filed pursuant to Article IX, Section 3 of this Resolution for separation due to a reduction in force shall be limited to whether the County Manager or his designee followed the requirements of this Section. To the extent that the provisions of this Section conflict with the State Personnel Act, such provisions shall be deemed inapplicable to employees of Union County subject to the Act. Department Directors and/or County Officers who are solely responsible for the discharge of their employees are encouraged to follow the provisions of this Section when implementing a reduction in force.

SECTION 6 (Added 2/2013)

Unavailability When Leave is Exhausted

An employee may be separated on the basis of unavailability when the employee becomes or remains unavailable for work after all accrued leave and benefits have been exhausted. Prior to separation the County shall notify the employee in writing of the proposed separation, the efforts undertaken to avoid separation, and why the efforts were unsuccessful. The County must also give the employee a letter of separation stating the specific reasons for the separation and setting forth the employee's opportunity for appeal. Provided, however, that employees listed in Article I, Section 2, Subsections 4 and 5 shall not have the opportunity for appeal.

Unavailability is defined as the employee's inability to return to all of the position's essential duties and work schedule.

Accrued leave is defined as sick, vacation, and holiday leave the employee chose to exhaust prior to going on leave without pay.

SECTION 7

Special Provisions - Credentials

There are some County jobs for which the law requires an employee to be licensed, certified, or registered. Without the license (including driver's license), certification or registration, the employee is unable to perform the assigned work. These requirements shall be included in the statement of essential qualifications or recruitment standards.

Employees in such classifications are responsible for maintaining current, valid credentials as required by law. Failure to maintain the required credentials is a basis for immediate dismissal without prior warning. An employee who is dismissed shall be given a written statement of the reason for the action and his/her opportunity for appeal. Provided, however, that employees listed in Article I, Section 2, Subsections 4 and 5 shall not have the opportunity for appeal

SECTION 8 (Added 2/2013)

Job Abandonment

Employees may be separated from employment due to job abandonment if any of the following occur:

- a. Failure to return to work within three (3) consecutive workdays after expiration of the approved Family and Medical or Military Family Leave. (Please see Article VI, Section 6.11 for additional details).
- b. Failure for three (3) consecutive workdays to report an absence in accordance with County or Departmental notification procedures.

Separations for job abandonment as described above shall be considered a voluntary resignation and shall not be subject to the grievance and/or appeal process.

ARTICLE VIII. DISCIPLINARY ACTION, SUSPENSION AND DISMISSAL

Revised February 18, 2013

SECTION 1

General

It is the intent of Union County in establishing this policy to provide for County employees and County government management a fair, clear and useful tool for correcting unsatisfactory job performance and unacceptable personal conduct.

The County recognizes that following sound employee relations practices is most important in the administration of all types of disciplinary actions in order to maintain a consistent application of such actions throughout County departments. Each member of management is responsible for the timely and thorough documentation of disciplinary actions. Formal disciplinary measures should be discussed with the Personnel Director or his or her designee prior to delivery and/ or discussion with the employee. All formal disciplinary documentation must be sent to the Personnel Department to include in the employee's personnel file.

To assist all levels of management in promoting efficiency and equitable treatment for all employees, the following is established:

Any employee subject to this policy may be warned, demoted, suspended or dismissed by the appointing authority. The degree and type of action taken shall be based upon the sound and considered judgment of the appointing authority in accordance with the provisions of this policy.

The basis for any disciplinary action taken in accordance with this policy falls into one of the following categories:

- a. Discipline imposed on the basis of unsatisfactory job performance
- b. Discipline imposed on the basis of grossly inefficient job performance
- c. Discipline imposed on the basis of unacceptable personal conduct.

These categories are not mutually exclusive, as certain actions by employees may fall into multiple categories, depending upon the facts of each case. No disciplinary action shall be invalid because the disciplinary action is incorrectly categorized.

SECTION 2.0

Unsatisfactory Job Performance

This category covers all types of performance-related inadequacies and is intended to be used in addressing performance-related inadequacies for which a reasonable person would expect to be notified and allowed an opportunity to correct such performance-related inadequacies. This Section does not require that progressive warnings address the same type of unsatisfactory job performance; this Section only requires that the progressive warnings relate to unsatisfactory job performance. Warnings administered under this policy are intended to bring about a permanent correction in job performance. Should the required correction later deteriorate, or other inadequacies occur, the supervisor may deal with this new unsatisfactory performance at the next progressive step in the discipline process.

Employees who are dismissed solely for unsatisfactory job performance shall receive at least three warnings. First, one or more oral warnings; second, a written warning to the employee documenting all relevant points

covered in the disciplinary discussion; and third, a final written warning which notifies the employee that failure to make the required performance corrections may result in dismissal. These warnings shall be given as set forth in Sections 3.0-3.2 of this Article. Otherwise, any disciplinary action, up to and including dismissal, may be taken without prior warning to the employee, as described in Sections 2.1 and 2.2 of this Article.

SECTION 2.1 (Added 2/2013)

Grossly Inefficient Job Performance

Grossly Inefficient Job Performance occurs in instances in which the employee fails to satisfactorily perform job requirements as specified in the job description, work plan, or as directed by the management of a County department or agency that results in:

- (1) The potential for death or serious harm to a client(s), employee(s), members of the public, or to a person over whom the employee has responsibility, or
- (2) The loss of, or damage to, County property or funds that results in a serious impact on the County or department, or on the employee's ability to function effectively thereafter, or
- (3) Any other instances of job performance deficiencies that may constitute a gross oversight in performance of duties.

This category is intended to be used in addressing failure in the performance of duties for which no reasonable person could, or should, expect to receive prior warnings. Employees may be dismissed, demoted, suspended, warned, or otherwise disciplined on the basis of grossly inefficient job performance. Such disciplinary action, up to and including dismissal, may be taken without prior warning to the employee.

Disciplinary demotions, suspensions, or dismissals for grossly inefficient job performance require following the procedures for such disciplinary actions described in this Article.

SECTION 2.2

Unacceptable Personal Conduct

The Unacceptable Personal Conduct category is intended to be used for actions and behaviors exhibited for which no reasonable person could, or should, expect to receive prior warnings.

Unacceptable Personal Conduct may include, but is not limited to, the following examples:

- (1) Job related conduct which constitutes violation of state or federal law; or
- (2) Conviction of a felony or an offense involving moral turpitude that is detrimental to or impacts the employee's service to the agency; or
- (3) The willful violation of known or written work rules; or
- (4) Conduct unbecoming an employee that is detrimental to the agency's service; or
- (5) The abuse of client(s), patient(s), or a person(s) over whom the employee has charge or to whom the employee has a responsibility, or of an animal owned or in the custody of the agency; or
- (6) Falsification of an employment application or other employment documentation; or
- (7) Insubordination which is the willful failure or refusal to carry out a reasonable order from an authorized supervisor; or

- (8) Absence from work after all authorized leave credits and benefits have been exhausted.

Employees may be dismissed, demoted, suspended, warned or otherwise disciplined on the basis of unacceptable personal conduct, up to and including dismissal, without prior warning to the employee.

Disciplinary demotions, suspensions, or dismissals for personal conduct require following the procedures for such disciplinary actions described in this Article.

SECTION 3.0

Oral Warning

In a private discussion with the employee, the Department Head (or supervisor) shall do the following:

- a. Inform the employee that this is a warning and not some other non-disciplinary process such as counseling.
- b. Inform the employee of the specific performance or conduct deficiencies that are the basis for the warning.
- c. Tell the employee what specific improvement must be made to correct the deficiencies.
- d. Let the employee know what time is being allowed to make the required corrections.
- e. Tell the employee of the consequences of failing to make the required corrections.

Supervisors shall document the specifics of the oral warning for the personnel file and send a copy to the Personnel Department for placement in the employee's personnel file.

SECTION 3.1

Written Warning

The Department Head (or supervisor) shall:

- a. Prepare a written warning document for the employee. The specific reasons for the warning and prior warning documentation (if applicable) should be included.
- b. In private, conduct a disciplinary conference with the employee. At this conference, the specific reason for the action, the necessary corrections, and the time allowed to make such corrections will be discussed.
- c. Present the warning to the employee at the end of the conference. The employee will be informed in the warning that failure to make the necessary corrections in a manner that is immediate, substantial, and sustained will result in further disciplinary action.

Reference may be made in this warning to earlier oral warning(s) or counseling(s).

SECTION 3.2

Final Written Warning

The Department Head (or supervisor) shall:

- a. Prepare a final written warning document for the employee. The specific reasons for the warning, and prior warning documentation that has led to the final warning stage (if applicable), should be included.
- b. In private, conduct a disciplinary conference with the employee. At this conference, the specific reason for the action, the necessary corrections, and the time allowed to make such corrections should be discussed.
- c. Present the warning to the employee at the end of the conference. The employee will be informed in the warning that failure to make the necessary corrections in a manner that is immediate, substantial, and sustained will result in further disciplinary action, up to and including dismissal.

Employees are allowed to respond to warnings given in accordance with Sections 3.0-3.2 of this Article by placing a statement in their file relating to the warning. Warnings are not subject to the grievance process.

SECTION 3.3

Dismissal

Before a County employee may be dismissed, the following shall occur:

- a. The Department Head recommending dismissal should discuss the recommendation with the Personnel Director, and receive approval from the County Manager.
- b. A pre-dismissal conference shall be held between the Department Head and the employee. The Department Head shall present the employee with the specific reason for the proposed dismissal conference and a brief summary of the information which he/she believes supports the proposed dismissal. The employee shall have an opportunity to respond to the notice of proposed dismissal in the conference. After the pre-dismissal conference, the Department Head shall reflect on the information presented at the pre-dismissal conference and contemplate whether the dismissal is justified. The Department Head shall reflect on this decision until at least the next business day following the pre-dismissal conference. If the Department Head determines the dismissal is justified, the Department Head shall notify the employee with a letter of dismissal. However, the Department Head may elect to defer the dismissal based on information presented by the employee, and reconsider the proposed dismissal action. If following such reconsideration, the decision is to dismiss, then no further pre-dismissal conference is required.
- c. The employee must be given written notice of dismissal. This written notice must include specific reasons for the dismissal and the employee's opportunity to appeal.

G.S. 153A-98(b) makes the dismissal notice for a county employee a public record.

SECTION 4.0

Suspension

Investigatory or disciplinary suspension may be used by management in appropriate circumstances. The County Manager must approve a request for an employee to be suspended for either investigatory or disciplinary reasons with or without pay.

Investigatory Suspension - This form of suspension may be with or without pay in accordance with the approval of the County Manager. Investigatory suspension is appropriate where management needs to investigate allegations which could affect an employee's work status.

Disciplinary suspension – This form of suspension may be with or without pay in accordance with the approval of the County Manager. Disciplinary suspension may be used for causes relating to grossly inefficient job performance or unacceptable personal conduct, or in conjunction with a final written warning for unsatisfactory job performance.

A pre-disciplinary conference shall be held between the Department Head, or his/her designee, and the employee. The Department Head, or his/her designee, shall present the employee with the specific reasons for the suspension and a brief summary of the information which he/she believes supports the proposed suspension. The employee shall have an opportunity to respond to that notice of suspension in the conference.

An employee who has been suspended with or without pay must be provided a statement in writing setting forth the specific acts or omissions that are the reasons for the suspension. Employees who are suspended for disciplinary reasons must additionally receive a copy of the employee's appeal opportunities.

SECTION 4.1

Immediate Disciplinary Suspension

In the event that the County Manager is unavailable, and the situation is serious, an employee may be suspended, without notice, by the Department Head for causes related to personal conduct or grossly inefficient job performance in order to avoid undue disruption of work, to protect the safety of persons or property, or for other serious reasons. When a Department Head suspends an employee, they shall tell the employee to leave County property at once and remain away until further notice. The Department Head shall notify the County Manager as soon as possible.

The terms and conditions of the suspension will be determined in consultation with the County Manager as soon as practical in accordance with the provisions of this Article.

SECTION 4.2

One Day Leave with Pay

Revised December 7, 2015

The use of this provision may be used with the approval of the County Manager. The use of this provision is intended to either encourage the employee to commit to correcting poor performance or make the employee aware of his/her lack of commitment to improvement. No written notice is required for this action, nor is it to be the subject of an appeal or grievance. The Department Head shall keep a written record of this action.

SECTION 5.0

Demotion, General

Any employee may be demoted as a disciplinary measure. Demotion may be made on the basis of unsatisfactory job performance, grossly inefficient job performance, or unacceptable personal conduct.

- a. The Department Head recommending demotion shall discuss the recommendation with the Personnel Director prior to any action.
- b. A pre-disciplinary conference shall be held between the Department Head and the employee. The Department Head shall present the employee with the specific reason for the proposed demotion and a brief summary of the information which he/she believes supports the proposed demotion. The employee shall have an opportunity to respond to that notice of the proposed demotion in the conference. After the pre-disciplinary conference, the Department Head shall reflect on the information presented at the pre-disciplinary conference and contemplate whether the demotion is justified. The Department Head shall reflect on this decision until at least the next business day following the pre-disciplinary conference. If the Department Head determines the demotion is justified, the Department Head shall notify the employee with a letter of demotion. However, the Department Head may elect to defer the demotion based on information presented by the employee, and reconsider the proposed demotion action. If following such reconsideration, the decision is to demote, then no further pre-disciplinary conference is required.
- c. An employee who is demoted must receive written notice of the specific reasons for the demotion, as well as notice of his/her appeal opportunities. Please refer to Article III, Section 7, paragraphs (c) and (d) for pay information.

On occasion a demotion may be for reasons other than those attributable to the fault of the employee. In this instance, the employee will be served with notice and reasons for the demotion.

SECTION 5.1

Demotion for Unsatisfactory Job Performance

An employee may be demoted in lieu of dismissal for unsatisfactory job performance provided the employee shows promise of becoming a satisfactory employee in another position. The employee will receive at least two prior warnings regarding his/her unsatisfactory performance. At least one of the warnings prior to demotion must be a written warning.

SECTION 5.2

Demotion for Grossly Inefficient Job Performance/Unacceptable Personal Conduct

An employee may be demoted for grossly inefficient job performance or unacceptable personal conduct without any prior warnings.

SECTION 6.0

Appeal

Revised December 7, 2015

A County employee who has been demoted, suspended, or dismissed shall have ten (10) working days from the date of receipt of written notice of such action to file an appeal with Human Resources to request a review by the Personnel Advisory Committee ("PAC"). In order to obtain a hearing before the PAC, the employee must request that his/her case be heard. This may be done by writing a letter to the Executive Director of Human Resources, Union County, 500 North Main Street, Suite 130, Monroe, North Carolina 28112. The request for a hearing must include the following:

1. The name, address, and telephone number of the employee;
2. The position held by the employee;
3. The name of the employee's Service Area (and Division if applicable);
4. The nature of the appeal (e.g. dismissal without justifiable cause, unpaid disciplinary suspension without cause, etc...);
5. A concise statement of the facts necessary to an understanding of the situation upon which the appeal is based; and
6. A statement of the relief desired.

Each time a case is to be heard, the County Manager will appoint three persons disinterested in the subject matter of the appeal to serve as the PAC. Members of the PAC shall be selected from the list below, except that members shall not be from the same Service Area as the appellant.

- a. Assistant to the County Manager
- b. Executive Directors
- c. Division Directors

The PAC will review all the pertinent facts relevant to the situation before it. Upon rendering a decision, the PAC will inform the County Manager. The County Manager shall review the recommendation of the Personnel Advisory Committee and either accept or reject the recommendation.

SECTION 6.1

Appeal to the County Manager

In the event that the PAC recommendation is not satisfactory to the employee, he/she may appeal to the County Manager for a final hearing of the matter. This appeal must be made within ten (10) working days from the date that the County Manager's acceptance or rejection of the PAC's recommendation is mailed or made known by the County to the appellant. The appeal to the County Manager shall be in accordance with the request requirements of Section 6.0 of this Article.

ARTICLE IX. GRIEVANCE PROCEDURES

Revised December 7, 2015

SECTION 1

Purpose

Union County adopts this policy to encourage employees throughout the organization to engage in open dialogue and communication with their direct supervisors regarding problems, conflicts, and other grievances, and to establish principles of administration to ensure a prompt, orderly, and equitable response to an employee, if the problem, conflict, or other grievance is not resolved at the direct supervisor level. In order to maintain a harmonious and cooperative relationship between the County and its employees, this Article IX provides for settlement of problems, conflicts, and other grievances through an orderly grievance procedure.

SECTION 2

Applicability

This Article IX shall apply to all County employees, except the following positions: County Manager, Assistant County Manager, Assistant to the County Manager, Executive Attorney, and Executive Directors.

The policy and procedures for grievances set forth in this Article IX shall not be used for grievances related to the appeal of disciplinary actions, unless discrimination is alleged as provided in Section 5 of this Article. Appeal of disciplinary actions, for those employees eligible for such appeal, shall be conducted in accordance with the procedures set forth in Article VIII. Additionally, a grievance cannot be filed under this Article IX challenging an investigatory suspension, placement on paid administrative leave, one day leave with pay, an employee's performance evaluation, or the amount of any merit or other pay increase.

SECTION 3

Policy

All County employees subject to this Article shall have the opportunity to present their problem, conflict, or other grievance in accordance with the procedure prescribed free from interference, coercion, restraint, discrimination or reprisal.

It is the responsibility of supervisors at all levels, consistent with the authority delegated to them, to consider and take appropriate action promptly and fairly on a problem or grievance of any employee or employees.

Each Executive Director and Division Director shall take necessary steps to ensure that all employees and supervisors under his/her jurisdiction may be fully informed of the grievance procedures adopted and of their opportunities and obligations under this policy.

SECTION 4

Procedure - Non Discrimination

STEP 1 - Discussions between employee and immediate supervisor

If an employee has a problem, conflict, or other grievance, it should first be discussed with the employee's immediate supervisor. The supervisor may call higher level supervisors into the discussion or consult them for advice and counsel before providing a response. When an employee feels intimidated or threatened by

their supervisor or has not received a response in a timely manner, the employee should go directly to the next higher level supervisor.

The employee shall receive a response within five (5) working days or be advised as to the conditions which prevent an answer within five (5) working days. The employee should also be advised as to when an answer may be expected.

STEP 2 - Discussion between employee and Division Director/Executive Director

If the decision is not satisfactory to the employee in Step 1 or if the employee fails to receive an answer within five (5) working days, the employee may request consideration by the Division Director. (Note that if the next level above the employee's supervisor is an Executive Director or if there is no applicable Division Director in the employee's Service Area, then the employee may request consideration by the Executive Director.) If the employee's direct supervisor is the County Manager, an Executive Director, or the Clerk to the Board, the employee may proceed directly to Step 3 below if the issue was not resolved at Step 1.

The request must be presented in writing within five (5) working days of (i) receipt of the decision in Step 1, or (ii) the failure to receive an answer within the time set forth above for a response in Step 1. The supervisor and employee shall provide all pertinent information to the Division Director/Executive Director who shall review the facts and hold whatever discussions deemed necessary. The Division Director/Executive Director shall provide a recommendation to the supervisor within five (5) working days after all necessary discussions are held and shall, at the same time, advise the employee of a recommended course of action.

STEP 3 – Consideration by the Personnel Advisory Committee or Assistant County Manager

If the employee is not satisfied with the decision of the Division Director/Executive Director or if unable within the specified amount of time to obtain a decision by the Division Director/Executive Director, then the employee may seek further review, provided that such request for review is filed not later than ten (10) days from receipt of the decision/recommended course of action or from the deadline for decision, as applicable. The employee may elect one of two alternatives for this Step 3 review. The employee may request consideration by the Personnel Advisory Committee ("PAC"), or the employee may request consideration by the Assistant County Manager. This choice is solely at the employee's option.

In order to obtain review by the PAC or the Assistant County Manager, the employee must file the request, as stated above, in writing to the Executive Director of Human Resources, Union County, 500 North Main Street, Suite 130, Monroe, North Carolina 28112. The request must include the following information.

1. The name, address, and telephone number of the employee;
2. The position held or applied for by the employee;
3. The name of the employee's Division/Service Area;
4. The nature of the grievance;
5. A statement indicating whether the employee desires the grievance to be heard by the PAC or the Assistant County Manager;
6. A concise statement of the facts necessary to an understanding of the situation upon which the grievance is based; and
7. A statement of the relief desired.

If the employee chooses consideration by the PAC, the County Manager will appoint three persons disinterested in the subject matter of the grievance to serve as the PAC. Members of the PAC shall be

selected from the list below, except that members shall not be from the same Service Area as the employee seeking review.

- a. Assistant to the County Manager
- b. Executive Directors
- c. Division Directors

The PAC or Assistant County Manager, as applicable, will review all the pertinent facts relevant to the situation before it. Upon reaching a decision, plan, or resolution, the PAC or Assistant County Manager, as applicable, will inform the County Manager. The County Manager shall review the decision, plan, or resolution of the PAC or Assistant County Manager and either accept or reject it.

STEP 4 – Review by the County Manager

If the employee is not satisfied with the decision of the PAC or the Assistant County Manager, as applicable, the employee may seek final review by the County Manager, provided that such request for review is filed within ten (10) days of receipt of the decision of the PAC or the Assistant County Manager.

SECTION 5

Procedure - Discrimination

Any applicant for County employment, or County employee or former County employee who has reason to believe that employment, promotion, training, or transfer was denied him/her or that demotion, lay-off or termination of employment was forced upon him/her because of his/her age, sex, race, color, national origin, religion, creed, political affiliation, or non-disqualifying handicap (except where specific age, sex or physical requirements constitute a bona fide occupational qualification) shall have the opportunity to seek review directly by the PAC or Assistant County Manager as provided in Step 3 of Section 4, or proceed through the normal grievance procedures. If it is decided to proceed directly to Step 3 for review by the PAC or Assistant County Manager, such review must be requested within ten (10) days of the alleged discriminatory action.

ARTICLE X. UNLAWFUL WORKPLACE HARASSMENT

Revised 09.19.02

SECTION 1

Purpose

Union County prohibits in any form unlawful workplace harassment or retaliation against employees. Supervisors are required to monitor the activity in their respective work areas to ensure that work sites are free from unlawful workplace harassment.

The work place should be free of tensions of a sexual nature. Tensions caused by unwelcome sexual advances or requests for sexual favors do not belong in the work place. Sexual considerations will not be used as the basis for employment decisions affecting any employees.

SECTION 2

Definitions

Unlawful Workplace Harassment is unwelcome or unsolicited speech or conduct based upon race, sex, creed, religion, national origin, age, color, or handicapping condition as defined by G. S. 168A-3 that creates a hostile work environment or circumstances involving quid pro quo.

Hostile Work Environment is one that both a reasonable person would find hostile or abusive and one that the particular person who is the object of the harassment perceives to be hostile or abusive. A hostile work environment is determined by looking at all the circumstances, including the frequency of the allegedly harassing conduct, its severity, whether it is physically threatening or humiliating and whether it unreasonable interferes with an employee's work performance.

Sexual harassment does not include "personal compliments welcomed by the recipient, or social interaction or relationships freely entered into by employees."

Quid Pro Quo harassment consists of unwelcome sexual advances, request for sexual favors or other verbal or physical conduct when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual.

Retaliation is adverse treatment taken because of opposition to unlawful workplace harassment.

SECTION 3

Department Head Responsibilities

The primary responsibility for implementing this policy rests with the DEPARTMENT HEAD. He/she will provide direction to staff as necessary to carry out all actions required to comply with the Unlawful Workplace Harassment Policy.

SECTION 4

Supervisor Responsibilities

- Administer the Unlawful Workplace Harassment Policy
- Prevent and correct any identifiable discrimination and/or unlawful workplace harassment
- Counsel employees appropriate to prevent and correct unlawful workplace harassment

- Create/maintain work environments free of unlawful workplace harassment

SECTION 5

Employee Responsibilities

- Adhere to the Unlawful Workplace Harassment Policy
- Report illegal discrimination and/or unlawful workplace harassment
- Maintain a work environment free of unlawful workplace harassment

SECTION 6

Training

Each department has the responsibility for taking steps to prevent and correct unlawful workplace harassment and retaliation. A logical first step is to offer a training program for supervisors and employees.

All new employees will be introduced to the Unlawful Workplace Harassment Policy during orientation. Training for all other employees should be offered on a quarterly basis.

Such training is necessary to help create an environment that supports employees and encourages productivity. Components of a departmental training program will include:

Supervisor's Training

- The Unlawful Workplace Harassment Policy
- Applicable state and federal laws
- Appropriate disciplinary actions
- Grievance procedures
- Illegal discrimination and corrective steps

Employee's Training

- The Unlawful Workplace Harassment Policy
- Disciplinary actions
- Grievance procedures

SECTION 7

Counseling

Some victims of unlawful workplace harassment have been known to experience some work-related problems such as absenteeism, low productivity, inefficiency, as well as physiological problems that have been linked to stress. Assistance is available through the Employee Assistance Program (EAP) for those employees experiencing personal work related problems resulting from unlawful workplace harassment.

SECTION 8

Outside Contractors

Employee conduct towards an outside vendor or contractor that would constitute unlawful workplace harassment could constitute unacceptable personal conduct.

SECTION 9

Grievance

Any current or former employee of Union County who feels that he/she has been unlawfully harassed in the workplace is urged to follow the normal grievance procedure outlined in Article IX, Section 3.

The employee may bypass any step in the grievance procedure involving review of or decisions by the alleged harasser.

SECTION 10

Investigation

A prompt impartial investigation will be made in all cases alleging harassment based on presented facts surrounding the misconduct. Each case will be reviewed based on the presented facts. All parties involved are entitled to a fair and impartial review of the facts. Interference, coercion, restraint or reprisal against any person complaining of sexual harassment is prohibited.

ARTICLE XI. EMPLOYEE BENEFITS

SECTION 1

Insurance Benefits

Revised 5/1/2000, 7/30/2014

The County will provide individual medical and dental insurance to all full-time employees. These employees are eligible to obtain employee/spouse, employee/child, or family medical and dental insurance coverage by paying the additional monthly cost. Employees shall be enrolled in the programs in accordance with the provisions of the insurance contracts and on the first day of the next month immediately following the day of hire.

Persons who occupy the position of County Manager may elect to continue coverage of the insurance provided pursuant to this Section after separation, provided that the following conditions are satisfied:

- a) Such person is separated from service with the County for a reason other than gross misconduct;
- b) Such person has attained age 60 at the time of separation of service;
- c) Such person pays all premiums for continued coverage and such premiums are paid in a timely manner; and
- d) Such person elects to continue coverage prior to separation such that there is no lapse in coverage.

A County Manager who elects to continue coverage pursuant to this Section may also continue coverage for his or her spouse, or, if permitted under the terms of the applicable insurance policies, may add coverage for his or her spouse at some point after separation upon occurrence of a qualifying event. Other dependents are not eligible for continued coverage, except as may be provided by applicable law. Any lapse in continued coverage for the County Manager and/or spouse shall render such person(s) ineligible for further coverage pursuant to this Section. All coverage continued after the County Manager's date of separation pursuant to this Section shall terminate upon the former County Manager attaining age 65.

SECTION 2

Unemployment Insurance

Local governments are covered by unemployment insurance. Union County employees who are laid off or released from the County's service may apply for unemployment compensation through the local office of the Department of Commerce, Division of Employment Security. Eligibility for unemployment insurance will be determined by the Department of Commerce, Division of Employment Security.

SECTION 3

Retirement Benefits

Each permanent, full-time employee, as a condition of employment, must join the Local Government Employees' Retirement System. Employees must contribute, through payroll deduction, the predetermined percentage of gross salary each month to the system. The County contributes an actuarially determined percentage of the gross payroll each month to the system.

SECTION 4

Law Enforcement Officers' Retirement Benefits

Law Enforcement Officer's Benefits are covered in a booklet provided by the Department of the State Treasurer of North Carolina.

SECTION 5

Post Employment Health Insurance Benefits

Revised 06.16.08, revised July 1, 2013

5.1 Employment Before July 1, 2008

Any full-time employee of the County of Union who (i) is employed by Union County before July 1, 2008, (ii) retires from service (regular or disability) under the provisions of the North Carolina Local Government Employee's Retirement System (NCLGERS) of the North Carolina Law Enforcement Officer's Benefit and Retirement Fund (NCLEOBRF), (iii) immediately prior to such retirement has earned ten (10) consecutive years of creditable service under either the NCLGERS or the NCLEODRF without a break in service, and (vi) earned such years of creditable service due to continuous full-time employment by the County, shall be eligible to continue coverage under the County's Group Health Insurance Program on the same basis as active full-time employees of the County.

5.2 Employment On or After July 1, 2008

Any full-time employee of the County of Union who (i) is employed by Union County on or after July 1, 2008, (ii) retires from service (regular or disability) under the provisions of the North Carolina Local Government Employee's Retirement System (NCLGERS) of the North Carolina Law Enforcement Officer's Benefit and Retirement Fund (NCLEOBRF), (iii) immediately prior to such retirement has earned twenty (20) consecutive years of creditable service under either the NCLGERS or the NCLEODRF without a break in service, and (vi) earned such years of creditable service due to continuous full-time employment by the County, shall be eligible to continue coverage under the County's Group Health Insurance Program on the same basis as active full-time employees of the County.

5.3 Employment On or After July 1, 2013

All employees hired on or after July 1, 2013, shall not be eligible to participate in the Retiree Group Health Plan, and the Supplement to Medicare Benefit

SECTION 6

Benefits/Other - Fixed

Union County, as the employer, provides the following additional benefits to its employees:

- a) Workers' Compensation - Provides coverage to all full and part-time employees to cover medical expenses and lost time from work due to work related injuries.
- b) 401(k) Plan - Supplemental Retirement Income Plan of North Carolina provides an automatic contribution by the employer for all participating members of the North Carolina Governmental Employees' Retirement System.

SECTION 7

Benefits/Other - Flexible

Additional deductions/benefits have been approved by the Board of County Commissioners. At the option of the employee, the following options may be payroll deducted under the provisions of the insurance contract:

- a. Health Insurance
- b. Credit Union / State-Local Government Employees Credit Union
- c. Supplemental Insurance through Colonial
- d. Flexible Spending Accounts - pre-tax medical premiums, uncovered medical expenses, dependent daycare
- e. Deferred Compensation - Tax deferred retirement savings
- f. Term Life Insurance
- g. Supplemental Insurance through AFLAC

SECTION 8

Special Separation Allowance

Approved June 4, 1990, Revised July 24, 2006, Revised October 19, 2009, revised July 7, 2013

8.1 Law Enforcement Officers

Notwithstanding anything herein to the contrary, the eligibility of local law enforcement officers for Special Separation allowances shall be determined in accordance with North Carolina General Statute 143-166.42.

8.2 Local Government Employees

8.2.1 Employed Before July 1, 2013

To qualify for the allowance, the local government employee shall:

- a. Be employed by Union County before July 1, 2013 and have (a) completed 30 years or more of creditable service or, (b) have attained 55 years of age and completed five or more years of creditable service; and
- b. Not have attained 62 years of age; and
- c. Be employed by Union County with five years of service before July 1, 2013 and have completed at least five years of continuous service as herein defined immediately preceding a service retirement. Any break in the continuous service required by this Subsection because of disability retirement or disability salary continuation benefits shall not adversely affect a qualification to receive the allowance, provided the employee returns to service within 45 days after the disability benefits cease and is otherwise qualified to receive the allowance.

As used in this Section, "creditable service" means the service for which credit is allowed under the retirement system of which the employee is a member.

8.2.2 Employed On or After July 1, 2013

Any employee of Union County who is employed on or after July 1, 2013 does not qualify to receive the special separation allowance.

8.2.3 Allowance Determination

Qualified county employees that were employed before July 1, 2013, who are members of the North Carolina Local Governmental Employees' Retirement System, and that meet the requirements listed in Section 8.2.1 shall receive, beginning the second pay cycle of each month in which the employee retires on a basic service retirement, an annual separation allowance equal to 0.85 percent of the annual equivalent of the employee's most recent base rate of compensation for each year of creditable service. The allowance shall be paid in 12 equal installments the second pay cycle of each month. The calculation formula is last salary x 0.85 percent x Number of Years of Creditable Service.

8.2.4 Allowance Termination

The special separation allowance payments shall cease at the time the retired employee reaches 62 years of age. Also, if a retired employee dies or is re-employed in any capacity by a North Carolina city, town, County or the State of North Carolina, payments shall also cease; provided, however, that a retired employee may continue to receive separation allowance payments if (i) the employee returns to work for Union County government on a temporary part-time basis, (ii) such employment is terminable at will without regard to termination procedures otherwise available to County employees under this Personnel Resolution, and (iii) the employee is otherwise qualified to receive the allowance.

8.2.5 Prohibition of Waivers

Union County will not entertain individual requests for waiver of this policy.

SECTION 9

Tuition Reimbursement Program

Revised May 2, 2016

9.1 Purpose

To reimburse employees who complete degrees, courses or certificates from eligible institutions that further their professional development with Union County.

9.2 General Provisions

- a) Funding for the Tuition Reimbursement Program is determined by, and subject to, appropriation by the Board of County Commissioners at the beginning of each fiscal year.
- b) Funding for approved tuition reimbursement applications is encumbered on a first come, first served basis during the County's fiscal year for as long as funds are available.

- c) An application for the Tuition Reimbursement Program shall not be considered approved based solely on its submittal to Human Resources.
- d) A Division is allowed the discretion to limit Skills Training to employees for budgetary or other business considerations.
- e) In this Section 9 of Article XI, the term “Division” refers to any Division as is commonly referred to in the Union County organizational hierarchy, as well as any other agency/service area/office which does not have any separate divisions.

9.3 Skills Training

Skills Training is characterized as training with a strategic purpose which is essential for the employee to perform his or her job. Skills Training would also include coursework required to maintain job required certification/licensure. Skills Training is provided on the County’s time and is paid for in full by the Division.

Examples of Skills Training include: courses offered by professional associations, state agencies, or institutions such as the UNC-School of Government; continuing education courses needed to obtain credits necessary for an employee to retain a certification, licensure or accreditation required by the County for the employee’s position; training to learn new job specific techniques; and job specific courses that provide updates to regulations, laws or technology.

9.4 Course Type Guidelines

Courses will be approved by the Division Director on a case-by-case basis according to the following criteria:

Description	Type	Reimbursement
<p>Courses that are <u>essential</u> for the job to ensure the employee has the immediate competencies to satisfactorily perform the job.</p> <p>Courses that are required to retain a certification, licensure or accreditation required by the County for the employee’s position.</p> <p>Courses that are <u>not essential</u> for the employee to perform their job but provide training to learn new job skills; techniques; or are relevant to the employee’s professional enrichment.</p>	Skills Training	100% paid by Agency/ Division in accordance with County policies
Higher education courses or programs offered by an accredited institution in a field relevant to County employment, and in a field in which the County recruits.	Tuition Reimbursement	100% tuition reimbursement, up to the limit in 9.12
Courses that are <u>not essential</u> for the employee to perform the job, <u>not</u> in a field relevant to County employment, or <u>not</u> related to a field in which the County recruits.	N/A	Denied

9.5 Higher Education Appropriateness

Higher Education is characterized as education beyond what is minimally required by an employee's current position, which enhances an employee's capabilities, but is not essential for the employee to perform in their current position with Union County.

Before a Higher Education course or program is approved, the course of study should be shown to be a degree, course or certification program offered by an institution accredited by a National or Regional Accreditation Council recognized by the U.S. Department of Education, in a field relevant to County employment, and in a field in which the County recruits.

An employee desiring to undertake a course of study shall complete a Tuition Reimbursement Program Application, which shall be developed by Human Resources.

9.6 Eligibility Criteria for Tuition Reimbursement Program

To be eligible to receive tuition reimbursement in the Tuition Reimbursement Program an employee **must meet all of the following criteria:**

- a) Be either a full-time or a benefited part-time employee;
- b) Meet the performance expectations of his or her current position by having not less than 2.0 overall rating on their most recent annual review.
- c) Have sufficient accrued paid leave to cover any anticipated time away from work needed to complete the desired education or training, which must be approved by the employee's Division Director in accordance with Section 9.7 herein;
- d) Be enrolled in an educational institution accredited by one of the National or Regional Accreditation Councils recognized by the U.S. Department of Education;
- e) Pursue a degree, course or certification in a field relevant to County employment;
- f) Take for-credit course work must be related to a field in which the County recruits (relation to a field shall be determined by Human Resources, in conjunction with the appropriate Division if necessary);
- g) Submit the Tuition Reimbursement Program Application in hard-copy to Human Resources in accordance with the following deadlines:
 - a. Applications for schools on a traditional quarter or semester system must be received no sooner than thirty (30) calendar days prior to the beginning of the quarter or semester, and no later than thirty (30) calendar days after classes have begun. Individual courses taken within a quarter or semester cannot be split into two payments.
 - b. Applications for schools which teach on a course-by-course basis can be submitted for each course individually, or up to three (3) consecutive courses can be grouped

together into one application. In either case the application must be received by Human Resources no sooner than thirty (30) calendar days prior to the beginning of the first course and no later than thirty (30) calendar days after the first course began.

- h) Submit a separate Tuition Reimbursement Program Application for each quarter, semester or other time period for which tuition reimbursement is requested.

9.7 Use of Work Time Prohibited

- a) Generally, all courses must be taken outside of work hours. However, if a course necessary for the completion of the program of study is offered only during a time which conflicts with the employee's scheduled work, the employee may use accrued vacation, holiday, or compensatory time off leave during the time the course conflicts with any scheduled work. However, use of such time must be approved by the Division Director, in his or her sole discretion, based upon Division business needs.
- b) In infrequent and rare instances, employees may request an irregular work schedule to take a class or course necessary for the completion of their program of study if such a course is offered only during a time which conflicts with the employee's normally scheduled work. The use of such an irregular work schedule must be approved by the Division Director, in his or her sole discretion, based upon Division business needs.

9.8 Doctorate Studies

- a) Tuition reimbursement requests for doctorate degree studies will be reviewed on a case-by-case basis and must be approved by the County Manager.

9.9 Exclusions

- a) Full-time and benefited part-time employees are not eligible to apply for tuition reimbursement if they are on leave-without-pay status.
- b) Skills Training paid for by a Division is not covered under the Tuition Reimbursement Program.
- c) Courses involving sports, games or hobbies are not covered under the Tuition Reimbursement Program, unless the course is approved as meeting the requirements for Higher Education set forth in Section 9.5 herein.

9.10 Acceptance or Denial

- a) Human Resources will notify the Tuition Reimbursement Program applicant in writing of approval or denial within three (3) weeks of receiving the application.

9.11 Appeal Process

- a) Employees whose applications for the Tuition Reimbursement Program have been denied must submit their appeals for reconsideration, in writing, along with supporting information

to the Executive Director of Human Resources within fifteen (15) calendar days from the date of notification of the denial of their Tuition Reimbursement Program application.

- b) Denials based upon the employee's ineligibility to participate in the Tuition Reimbursement Program, the ineligibility of an educational institution, and timeliness of the application are not eligible for an appeal.
- c) The Executive Director of Human Resources shall make the final determination regarding the applicant's appeal.
- d) Employees will be notified by the Executive Director of Human Resources of the decision regarding their appeal within two weeks of receipt of the appeal.

9.12 Payment Guidelines

- a) Employees will be eligible to receive no more than the IRS income tax exclusion limit for educational assistance through the Tuition Reimbursement Program per calendar year. This limit will apply to employer reimbursements for both graduate and undergraduate level courses.

- a. Full time employees: 100% reimbursement up to the amount set as the limit for exclusion from taxable wages for educational assistance set forth by the Internal Revenue Service ("IRS"). This limit amount is set by the IRS and may change at any time. Please refer to IRS Publication 15-B, or any successor publication, for the current limit amount.

Note: Employees with questions associated with tax implications should consult their tax professional or IRS professional.

- b. Benefited part-time employees: Pro-rated reimbursement of the limit amount for exclusion from taxable wages for educational assistance set forth by the IRS based upon the percentage at which the employee earns other employment benefits. (E.g. 50%, 65%, 75% of the full limit amount). This limit amount is set by the IRS and may change at any time. Please refer to IRS Publication 15-B, or any successor publication, for the current limit amount.

Note: Employees with questions associated with tax implications should consult their tax professional or IRS professional.

- c. Graduate level education generally does not qualify for exclusion from taxable wages for educational assistance set forth by the IRS. Generally, tuition reimbursement for such courses will be considered a fringe benefit subject to regular taxation as wages, unless the course meets the requirement for exclusion from taxable wages as set forth by applicable law. Reimbursement for such coursework still applies toward the limit amount under the Tuition Reimbursement Program set forth above in Section 9.12(a) herein.

- d. The exclusion from taxable wages status of the requested reimbursement will be made at the time of application review and documented on the application form.
- b) The tuition reimbursement payment shall be based upon tuition actually paid by the employee. When tuition is reduced by the school, the reimbursement is based upon the reduced rate. This includes discounts based upon recruitment incentives, military status, employment status and similar situations. Grants and scholarships received by the student that reduce the tuition paid shall reduce the tuition reimbursement payment.
- c) College level Examination Program (CLEP) will be treated the same as tuition.

9.13 Reimbursable Fees

Participants may be reimbursed for certain fees in addition to tuition, at the same percentage allowed based upon their employment status (40 hours = 100%, 30 hours =75%, 20 hours =50%, etc.). If a fee is not listed as a reimbursable fee below, then it will be considered non-reimbursable (examples of such non-reimbursable fees are class resource materials, transportation, room and board, and payment convenience fees). The following are reimbursable fees:

- a) Fees titled mandatory fees by the applicable education institution or program
- b) CLEP test fees
- c) Program fee
- d) Library fee
- e) Lab fee
- f) Resource fee
- g) Internet fee
- h) Student fee
- i) Technology fee
- j) On-line fee
- k) Out-of-State distance education fees

9.14 Receiving Payment

- a) To receive a reimbursement payment an employee is responsible for submitting the following to Human Resources within thirty (30) days of course completion.
 - a. a report from the accredited educational institution indicating a “C” or higher for each course, or other evidence of satisfactory completion; and
 - b. proof of tuition payment.
- b) The Executive Director of Human Resources, or his or her designee, may grant extensions for the completion of course work for medical reasons, military reasons, or similar extenuating circumstances, in the Executive Director of Human Resources’ sole discretion.
- c) Employees working on a thesis or dissertation may submit a letter from their professor stating that satisfactory progress is being made towards completion at the end of the quarter or semester (as applicable). Any incomplete work must be made-up within one year.
- d) Employees accepted under the Tuition Reimbursement Program will be required to sign an agreement that will include repayment terms and conditions, as well as other conditions of the Tuition Reimbursement Program.

9.15 Repayment of Reimbursed Tuition

- a) Prior to final approval of a Tuition Reimbursement Program application the employee must sign the Tuition Repayment Commitment and Authorization for Salary Deduction form, as well as any other forms required by Human Resources.
- b) An employee’s repayment of the full amount reimbursed under the Tuition Reimbursement Program is required if the employee does not continue in a full-time or benefited part-time status with Union County for at least two consecutive years from the date of the employee’s receipt of any reimbursement amount under the Tuition Reimbursement Program. Any such repayment is required prior to the employee’s separation date.
- c) In the event repayment is not remitted by the separation date, deductions of the amount due will be made from the final paycheck or any other amounts payable to the employee, as allowed by applicable law.
- d) This two-year continuity of service condition does not apply to employees who pass-away, separate due to a long-term disability, are part of a reduction in force, or involuntarily terminate for any reason other than termination for cause. All voluntary separations from County employment are subject to the reimbursement requirement of this section 9.15.

ARTICLE XII. PERSONNEL RECORDS AND REPORTS

SECTION 1

Personnel Records Maintenance

Revised April 18, 2011

The following information on each County employee is considered public information:

- a) Name
- b) Age
- c) Date of original employment or appointment to County service
- d) The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the county has the written contract or a record of the oral contract in its possession
- e) Current position title
- f) Current salary
- g) Date and amount of each change in salary
- h) Date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification
- i) Date and general description of the reasons for each promotion
- j) Date and type of each dismissal, suspension or demotion for disciplinary reasons taken by the county. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the county setting forth the specific acts or omissions that are the basis of the dismissal.
- k) The office to which the employee is currently assigned.

SECTION 2

Access to Personnel Records

As required by NCGS Sec. 153A-98, any person may have access to the information listed in Section 1 of this Article for the purpose of inspection, examination, and copying during the regular business hours, subject only to such rules and regulations for the safekeeping of public records as the Board of Commissioners may adopt. Access to such information shall be governed by the following provisions:

- a) All disclosures of records shall be accounted for by keeping a written record (except for authorized persons processing personnel actions) of the following information: Name of employee, information disclosed, date information was requested, name and address of the person to whom the disclosure is made. This information must be retained for a period of two years.

- b) Upon request, records of disclosure shall be made available to the employee to whom it pertains.
- c) An individual examining a personnel record may copy the information;

SECTION 3

Confidential Information

Revised April 18, 2011

The County does not furnish employee name and address lists.

All information contained in a County employee's personnel file, other than the information listed in Section 1 of this Article, will be maintained as confidential in accordance with the requirement of NCGS Sec. 153A-98 and shall be open to public inspection only in the following instances:

- a) The employee or his/her duly authorized agent may examine all portions of his/her personnel file, EXCEPT
 - 1) letters of reference solicited prior to employment
 - 2) information concerning a medical disability, mental or physical, that a prudent physician would not divulge to his/her patient.
- b) A licensed physician designated in writing by the employee may examine the employee's medical records.
- c) A County employee having supervisory authority over the employee may examine all materials in the employee's personnel file.
- d) By order of a court of competent jurisdiction, any person may examine all material in the employees personnel file as may be ordered by the court.
- e) An official of any agency of the State or Federal government, or any political subdivision of the State may inspect any portion of a personnel file when such information is deemed necessary and essential to the pursuance of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee or for the purpose of assisting in an investigation of the employees tax liability as provided for in NCGS 153A-98. However, the name, address, and telephone number from a personnel file may be released for the purpose of assisting in a criminal investigation.
- f) As otherwise permitted by NCGS 153A-98.
- g) Each individual requesting access to confidential information will be required to submit satisfactory proof of identity.
- h) A record shall be made of each disclosure and place in the employee's file (except disclosures to the employee and the supervisor).

SECTION 4

Records of Former Employees

The provisions for access to records apply to former employees as they apply to present employees.

SECTION 5

Remedies of Employees Objecting to Material in File

An employee who objects to material in his/her file may place in their file a statement relating to the material he/she considers to be inaccurate or misleading. The employee may seek the removal of such material in accordance with the established grievance procedures (Article IX).

SECTION 6

Penalty for Permitting Access to Confidential File by Unauthorized Person

General Statute 153A-98 provides that any public official or employee who knowingly and willfully permits any person to have access to any confidential information contained in an employee personnel file, except as expressly authorized by the designated custodian, is guilty of a misdemeanor and upon conviction shall be fined in an amount not to exceed five hundred dollars (\$500.00).

SECTION 7

Penalty for Examining and/or Copying Confidential Material Without Authorization

General Statute 153A-98 provides that any person, not specifically authorized to have access to a personnel file designated as confidential, who shall knowingly and willfully examine in its official filing place, remove or copy any portion of a confidential personnel file, shall be guilty of a misdemeanor and upon conviction shall be fined in the discretion of the Court in an amount not to exceed five hundred dollars (\$500.00).

ARTICLE XIII. DRUG AND ALCOHOL FREE WORKPLACE POLICY

Revision Date: June 2, 2008, September 20, 2010, October 17, 2011, August 15, 2016

SECTION 1

Purpose and Scope of Policy

- a. The purpose of this Policy is to maintain a drug-free and alcohol-free workplace and to provide procedures for testing job applicants and employees for the use of illegal drugs, the improper use of prescription medications, and the misuse of alcohol.
- b. All testing will be conducted in a manner that will protect the rights of employees and applicants subject to testing. Therefore, the County will take all necessary steps to safeguard the dignity and self-esteem of those being tested, and will ensure adherence to all procedures pertaining to the implementation of this Policy. The County will adhere strictly to all standards of confidentiality and assure all employees that testing records and results will be released only to those authorized to receive such information.
- c. Employees with substance-abuse problems are encouraged to voluntarily seek help. If an employee should approach the County prior to being identified as a drug user/abuser or alcohol abuser by means of drug or alcohol testing, all possible and positive consideration for a medical leave of absence for treatment and/or counseling will be pursued. However, notwithstanding any other provision of this Policy to the contrary, employees who fail drug or alcohol tests may be disciplined, up to and including termination, in accordance with the provisions of this Policy. If an employee is terminated, no benefits except those provided for by federal, State or local act will be provided for beyond the last day of employment.
- d. Employees will be given a copy of this Policy and will be required to sign a form acknowledging its receipt. By continuing to work, the employee agrees that he/she will abide by the Policy as a condition of employment. Failure to sign the form will result in disciplinary action up to and including termination.
- e. This Policy shall be administered by the Union County Executive Director of Human Resources (the "Director"), in consultation with the Union County Risk Manager.

SECTION 2

Definitions

Revised October 17, 2011, August 15, 2016

Accident means a Major Automobile Accident or any event occurring while an employee is on duty that results in death, bodily injury, or property damage that was not expected or intended to happen.

Alcohol test means a test for the presence of alcohol in the breath or blood of an employee.

Commercial Vehicle means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle:

- (a) Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;
- (b) Has a gross vehicle weight rating of 26,001 or more pounds;

- (c) Is designed to transport 16 or more passengers, including the driver; or
- (d) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and that requires the motor vehicle to be placarded under the Hazardous Materials Regulations.

Confirmation test for *alcohol* means a second test, following a test with a result of 0.02 or greater, that provides quantitative data about alcohol concentration. **Confirmation test** for *drugs* means a second analytical procedure to identify the presence of a specific drug or metabolite that is independent of the initial test and that uses a different technique and chemical principle from that of the initial test in order to ensure reliability and accuracy.

Conviction means a finding of guilt, a plea of guilt, a plea of nolo contendere, or imposition of sentence by any judicial body charged with the responsibility to determine violations of federal or state criminal drug statutes.

Covered Applicant means an applicant for an employment position that involves the performance of a Safety-Sensitive Function.

Covered Employee means an employee whose job involves the performance of a Safety Sensitive Function. Covered Employees include, but are not limited to, Covered Employees who drive Commercial Vehicles and Covered Mass Transit Employees.

Covered Mass Transit Employee means an employee who: (i) works for a County agency or department that receives federal transit funds; and (ii) operates a Revenue Service Vehicle, operates a Nonrevenue Service Vehicle that requires a license to drive a commercial vehicle (a “CDL”), controls the dispatch or movement of a Revenue Service Vehicle, or maintains (including repair, overhaul, and rebuilding) a Revenue Service Vehicle or equipment used in revenue service.

Criminal drug statute means a criminal statute relating to the manufacture, distribution, dispensation, use or possession of any drug.

DOT means the United States Department of Transportation.

Drug test or drug screening means a test for the presence of drugs in the urine or blood of an employee.

Drug means a drug or controlled substance as listed in Schedules I through V of the Federal Controlled Substances Act (21 U.S.C. § 812) or as defined in the North Carolina Controlled Substances Act (Chapter 90, Article 5, N.C.G.S), or any other substance (other than food) that may be determined to reduce work efficiency.

FMCSA means the Federal Motor Carrier Safety Administration.

FTA means the Federal Transit Administration.

Major Vehicle Accident means an occurrence involving the operation of a vehicle that results in: (i) a fatality; (ii) bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or (iii) one or more vehicles incurring disabling damage as a result of the accident, requiring the vehicle(s) to be transported away from the scene by a tow truck or other vehicle.

Medical Review Officer (MRO) means a properly licensed physician with specific training in the area of substance abuse. The MRO not only has knowledge of substance-abuse disorders, but also has been trained to interpret and evaluate laboratory test results in conjunction with an employee's medical history.

Negative, with respect to the results of an **alcohol test**, means a test that indicates a breath alcohol concentration of less than 0.02. **Negative**, with respect to the results of a **drug test**, means a test result that does not show presence of drugs at a level specified to be a positive test.

Nonrevenue Service Vehicle means a vehicle available to the public for carrying passengers who are not charged for transportation on either a per-passenger or per-vehicle basis (such as a school bus), in accordance with FTA regulations.

On call means being subject to a call to report immediately to work for which the employee receives some form of compensation from Union County.

On duty means when an employee is at the Workplace, performing job duties, or during any other period of time for which he or she is entitled to receive pay from Union County.

Pass with respect to an **alcohol test** means that the test showed no evidence or insufficient evidence of a prohibited level of alcohol. **Pass** with respect to **drug test** means that the test showed either (a) no evidence or insufficient evidence of a prohibited drug or drug metabolite, or (b) evidence of a prohibited drug or drug metabolite, but there was a legitimate medical explanation for the result as determined by an MRO.

Positive, with respect to the results of an **alcohol test**, means the presence of alcohol in an employee's system in a concentration of 0.04 or greater (although see Section 3 of this Policy for the treatment of an alcohol test with the presence of alcohol in an employee's system in a concentration of at least 0.02).

Positive, with respect to the results of a **drug test**, means a laboratory finding of the presence of a drug or a drug metabolite in the urine or blood of an employee at the levels identified by SAMHSA, or for drugs not subject to SAMHSA guidelines, at the levels identified by the County, if any.

Reasonable Suspicion for Covered Employees who drive Commercial Vehicles and Covered Mass Transit Employees means that there is suspicion that an employee is engaged in the improper use of alcohol or drugs in violation of this Policy, based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee made by a supervisor or other County official trained in detecting the signs and symptoms of misuse of alcohol or drugs in accordance with 49 C.F.R. § 382.603 and 49 C.F.R. § 655.14.

Reasonable Suspicion for all other employees means a well-founded belief, as determined by an employee's supervisor, that the employee is engaged in the improper use of alcohol or drugs in violation of this Policy based on the following criteria:

- Direct observation of alcohol or drug use or possession;
- Direct observation of common physical symptoms of being under the influence of alcohol or drugs, such as impairment of motor functions or speech;
- Arrest or conviction for an alcohol or drug related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use, or distribution;
- Information provided by reliable and credible sources or independently corroborated; or
- Newly discovered evidence that the employee tampered with a previous alcohol or drug test.

Revenue Service Vehicle means a vehicle available to the public for carrying passengers who pay transportation fares either directly, through assistance by public policy, or through some contractual arrangement, in accordance with FTA regulations.

Safety-sensitive Function for Covered Mass Transit Employees means any of the following duties:

- Operating a Revenue Service Vehicle, including when not in revenue service;
- Operating a Nonrevenue Service Vehicle, when required to be operated by a holder of a Commercial Driver's License;
- Controlling dispatch or movement of a Revenue Service Vehicle;
- Maintaining (including repairs, overhaul and rebuilding) a Revenue Service Vehicle or equipment used in revenue service; or
- Carrying a firearm for security purposes.

Safety-sensitive Function for all Covered Employees who drive Commercial Vehicles (and who are not **Covered Mass Transit Employees**) means:

- Operating a non-transit commercial motor vehicle requiring a Commercial Driver's License to be operated.

Safety-sensitive Function for all other employees covered under the sole authority of Union County (those employees who are not **Covered Mass Transit Employees** or **Covered Employees who drive Commercial Vehicles**) means a job function that: (i) requires the employee to hold a CDL; or (ii) the dereliction of which may likely cause a serious and immediate threat to public safety, including:

- Driving a motor vehicle on a regular basis, unless the percentage of work time spent driving is negligible;
- Operating heavy machinery;
- Maintaining or inspecting motor vehicles or heavy machinery;
- Dispatching emergency services;
- Handling hazardous chemicals;
- Wastewater treatment operations;
- Direct patient health care; or
- Lifeguard.

SAMHSA means the United States Department of Health and Human Services Substance Abuse and Mental Health Services Administration.

SAP means a Substance Abuse Professional as defined in 49 C.F.R. Part 40.

Supervisor, in general, means any employee who has the authority to direct the job activities of one or more other employees. With respect to a particular employee, the term means such employee's immediate supervisor and all persons having indirect supervisory authority over such employee.

Workplace means the location or facility where an employee may be expected to perform any task related to the requirements of his or her job. This includes break rooms and restrooms, outdoor work sites, County vehicles, personal vehicles while being used for County business, computer work stations, conference rooms, hallways, private offices, open/partitioned work areas, public contact/customer service/medical services areas, and parking lots.

SECTION 3

Prohibited Behavior

3.1 Alcohol

- a. The manufacture, distribution, dispensation, possession, storage, purchase, or use of alcohol by County employees while on duty is prohibited and constitutes grounds for immediate termination.
- b. No employee shall report for duty or remain on duty while having an alcohol concentration of 0.02 or greater.
- c. No **Covered Employee** shall use alcohol within four (4) hours before going on duty.
- d. No employee involved in an Accident that requires an alcohol test pursuant to this Policy shall consume any alcohol for eight (8) hours following the Accident or until the test is performed, whichever comes first.
- e. An employee who: (i) refuses to submit to an alcohol test or fails to follow through with an alcohol test when testing is required by this Policy, or (ii) reports or remains on duty with an alcohol concentration of 0.04 or greater will be subject to termination. The employee will be removed immediately from duty and referred to a SAP. However, before proceeding with disciplinary action, the employee's department head must assure that the facts of the case are reviewed by the Director or his designee.
- f. An employee who is tested and found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall not perform or continue to perform his or her job functions until the start of the employee's next regularly scheduled duty period, but not less than twenty-four (24) hours following administration of the test unless a confirmation test results in an alcohol concentration of less than 0.02. The employee shall be removed from duty without pay for this twenty-four (24) hour period and shall receive a notation in his or her performance appraisal about the requirement of reporting to work without the presence of alcohol in his or her system.
- g. Under the sole authority of Union County, an employee who is terminated as a result of a positive alcohol test will not be considered for re-employment for a period of two (2) years from the date of the test.
- h. A **Covered Employee who drives a Commercial Vehicle** or a **Covered Mass Transit Employee** who: (i) refuses a required alcohol test or (2) has a confirmed alcohol test result of 0.04 or greater may not subsequently perform any Safety-sensitive Function for the County unless and until he or she completes a SAP evaluation, referral, and education/treatment process, and shall be subject to return-to-duty and follow up testing, as set forth in 49 C.F.R. Part 40, as amended.

3.2 Drugs

- a. The unlawful manufacture, distribution, dispensation, possession, purchase, or use of drugs by employees is prohibited and constitutes grounds for immediate termination.
- b. No employee shall report for duty or remain on duty while under the influence of drugs.

- c. Under the sole authority of Union County, an employee shall inform his or her supervisor if, prior to beginning work or while he or she is on duty, he or she has used or intends to use any prescription medication, over-the-counter medication, or other substance that might impair his or her ability to satisfactorily perform duties. Employees are responsible for a thorough understanding of the effects and potential side effects of medications or other chemical substances taken. Failure to notify the supervisor under these circumstances may result in disciplinary action up to and including termination. However, before proceeding with disciplinary action, the employee's department head must assure that the facts of the case are reviewed by the Director or his designee.
- d. An employee who: (i) refuses to submit to, or fails to follow through when testing is required by this Policy or (ii) has a verified positive drug test will be subject to termination. The employee will be removed immediately from duty and referred to a SAP. However, before proceeding with disciplinary action, the employee's department head must assure that the facts of the case are reviewed by the Director or his designee.
- e. Under the sole authority of Union County, an employee who is terminated as a result of a positive drug test may not be considered for re-employment for a period of two (2) years from the date of the test.
- f. **A Covered Employee who drives a Commercial Vehicle or a Covered Mass Transit Employee** who: (i) refuses a required drug test or (2) has a verified positive drug test may not subsequently perform any Safety-sensitive Function for the County unless and until he or she completes a SAP evaluation, referral and education/treatment process and shall be subject to return-to-duty and follow up testing, as set forth in 49 C.F.R. Part 40, as amended.

SECTION 4

Supervisor Responsibilities

Every supervisor shall:

- a. Consistently apply this Policy to all employees under his or her supervision. A supervisor who fails to apply this Policy when he or she believes, or reasonably should believe, that an employee under his or her supervision has committed a violation, will be disciplined.
- b. Initiate the process for having an employee drug or alcohol tested, by notifying the Director, if there is Reasonable Suspicion that an employee under his or her supervision, when such employee is on duty, has an illegal drug or alcohol in his or her system or is using any legal drug in a manner other than it was intended.
- c. Insure that all employees he or she supervises receive training on the requirements and consequences of this Policy.
- d. Follow the procedure established by the department head for assuring that an employee who is to be tested for alcohol or other drugs is transported to the designated test site, and that those employees for whom there is Reasonable Suspicion of substance abuse or who have had a breath alcohol test result of 0.02 or greater are transported home, either by personal family/friends or by arranged transportation.

SECTION 5

Employee Responsibilities

Every employee and, to the extent applicable, every applicant shall:

- a. Abide by this Policy as a condition of employment.
- b. Comply with all applicable laws regulating the manufacture, distribution, dispensation, use or possession of alcohol, drugs, or prescription medications.
- c. Assure that his or her ability to perform his or her job duties is not negatively affected due to use of a drug or alcohol when scheduled to report to work or when on call. Should any employee be requested to report to work earlier than his or her normal or previously assigned time, it is the employee's responsibility to advise his or her supervisor of an inability to perform his or her job duties or that he or she has used alcohol or drugs within the last four hours prior to reporting for duty. If the employee had received prior notice that he or she might be called back into work, the employee shall be considered absent without leave if he or she is unable to report to duty and may be subject to other disciplinary action due to inability to report for duty. If a **Covered Mass Transit Employee** acknowledges the use of alcohol when on call, but claims the ability to perform his or her safety-sensitive function, the **Covered Mass Transit Employee** must take an alcohol test.

In the case of a supervisor who has consumed alcohol or drugs within four hours of receiving an unscheduled notice to report to work or who is otherwise unable to perform his or her job duties due to the influence of alcohol or drugs, the supervisor shall contact a previously designated employee within his or her department to assume the role and responsibilities of the supervisory position until the four-hour time period has passed or, if later, the supervisor is no longer under such influence and can safely return to duty. If no employee within the supervisor's department is available or capable of assuming temporary supervisory responsibilities, the supervisor shall contact the Assistant County Manager who shall appoint a temporary supervisor.

- d. Submit immediately to a drug or alcohol test when requested by his or her supervisor or by the Director in accordance with this Policy.
- e. Notify his or her department head within five (5) days if convicted of a violation of a criminal drug statute such as the manufacture, distribution, dispensation, possession, or use of narcotics, drugs, or for any other controlled substance when such violation occurred while the employee was on duty, as required by the Drug-Free Workplace Act of 1988. Criminal conviction means a finding of guilt, a plea of no contest, or a plea of guilty.

SECTION 6

Drug and Alcohol Tests

Revised October 17, 2011, August 15, 2016

6.1 Reasonable Suspicion Testing

- a. Any employee who while on County property, while operating a County vehicle, or while otherwise on duty, demonstrates work performance or behavior that creates a Reasonable

Suspicion that the employee is under the influence of alcohol or drugs in violation of this Policy shall be subject to alcohol or drug testing.

- b. A test for alcohol shall be administered within two (2) hours, but no later than eight (8) hours, following the determination of Reasonable Suspicion. If the test is not administered within two (2) hours, the supervisor must document the reason(s) the test was not promptly administered. If the test is not administered within eight (8) hours, the supervisor shall cease attempts to administer the test and shall prepare and maintain a written record stating the reason(s) for not administering the test.
- c. A test for drugs shall be administered as soon as possible, but not later than thirty-two (32) hours, following the determination of Reasonable Suspicion. If the test is not administered within thirty-two (32) hours, the supervisor shall cease attempts to administer the test and shall prepare and maintain a written record stating the reason(s) for not administering the test.
- d. Once a Reasonable Suspicion is established, the employee shall not be allowed to report to duty or remain on duty until: (i) an alcohol or drug test is administered and the results of such test are negative, or (ii) eight (8) hours have elapsed following a determination of Reasonable Suspicion of alcohol, or (iii) thirty-two (32) hours have elapsed following a determination of Reasonable Suspicion of drugs.
- e. A written record shall be made of the grounds for administering a Reasonable Suspicion Test for alcohol or drugs and signed by the supervisor or departmental designee who made the determination of Reasonable Suspicion within twenty-four (24) hours of the observed behavior or before the results of the alcohol or drug test are released, whichever is earlier.

6.2 Post-Accident Testing

- a. Any employee whose conduct apparently contributed to an Accident resulting in: (i) death; (ii) bodily injury requiring hospitalization; or (iii) \$50,000 or more in personal property damage, shall be tested for drugs and alcohol following such Accident.
- b. Any **Covered Employee** whose conduct may have contributed to an Accident resulting in (i) death; (ii) bodily injury requiring medical treatment away from the scene of the accident; or (iii) \$10,000 or more in property damage shall be tested for drugs and alcohol following such Accident.
- c. In addition to the other post-accident testing requirements described herein and established pursuant to Union County's independent authority, all **Covered Employees who drive Commercial Vehicles** (excluding **Covered Mass Transit Employees**) will be subject to the testing requirements found in 49 CFR § 382.303, as amended. This regulation requires the County to test all surviving drivers for alcohol following an occurrence involving a Commercial Vehicle operating on a public road in commerce if the driver: (1) was performing safety-sensitive functions (as defined by 49 CFR Part 382, as amended) with respect to the vehicle and the accident involved the loss of human life; or (2) receives a citation within 8 hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the occurrence involved: (i) bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the occurrence; or (ii) one or more motor vehicles incurring disabling damage as a result of the occurrence, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

The regulation requires the County to test all surviving drivers for controlled substances following an occurrence involving a Commercial Vehicle operating on a public road in commerce if the driver: (1) was performing was performing safety-sensitive functions (as defined by 49 CFR Part 382, as amended) with respect to the vehicle and the accident involved the loss of human life; or (2) receives a citation within 32 hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved: (i) bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or (ii) one or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle. The alcohol and controlled substances testing requirements set forth in 49 CFR § 382.303 do not apply to: (1) an occurrence involving only boarding or alighting from a stationary motor vehicle; or (2) an occurrence involving only the loading or unloading of cargo; or (3) an occurrence in the course of the operation of a passenger car or a multipurpose passenger vehicle (as defined in 49 CFR § 571.3, as amended) unless the motor vehicle is transporting passengers for hire or hazardous materials of a type and quantity that require the motor vehicle to be marked or placarded in accordance with 49 CFR 177.823, as amended.

In addition to the other post-accident testing requirements described herein and established pursuant to Union County's independent authority, all **Covered Mass Transit Employees** will be subject to the testing requirements found in 49 CFR § 655.44, as amended. This regulation requires the County to conduct drug and alcohol tests on each surviving **Covered Mass Transit Employee** operating the mass transit vehicle at the time of a vehicle accident involving the loss of human life unless the employee is tested under the fatal accident testing requirements of the Federal Motor Carrier Safety Administration rule 49 CFR 389.303(a)(1) or (b)(1). This regulation also requires the County to conduct drug and alcohol tests on any other **Covered Mass Transit Employee** whose performance could have contributed to a vehicle accident involving a fatality, as determined by the County using the best information available at the time of the decision. Furthermore, the regulation requires drug and alcohol testing of the following **Covered Mass Transit Employees** in the event that a mass transit vehicle is involved in an accident resulting in injuries requiring immediate transportation to a medical treatment facility, or an accident in which one or more vehicles incurs disabling damage, but not involving the loss of human life: (1) each **Covered Mass Transit Employee** operating the mass transit vehicle at the time of the accident unless the County determines, using the best information available at the time of the decision, that the **Covered Mass Transit Employee's** performance can be completely discounted as a contributing factor to the accident; and (2) any other **Covered Mass Transit Employee** whose performance could have contributed to the accident, as determined by the County using the best information available at the time of the decision.

An employee who is subject to post-accident testing under this subsection c shall remain readily available for such testing or may be deemed by the County to have refused to submit to testing. Nothing in this Policy shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

- d. Post-accident testing for alcohol will be administered immediately following the Accident or as soon thereafter as medically and legally possible, but no later than eight (8) hours after the Accident. If the test is not administered within two (2) hours, the supervisor shall prepare and maintain a written record stating the reason(s) why the test was not administered within two

(2) hours. If the test is not administered within eight (8) hours, the supervisor shall cease attempts to administer the test and shall prepare and maintain a written record stating the reason(s) why the test was not promptly administer

- e. Post-accident testing for drugs will be administered immediately following the Accident or as soon thereafter as medically and legally possible, but no later than thirty-two (32) hours after the Accident. If the test is not administered within thirty-two (32) hours, the supervisor shall cease attempts to administer the test and shall prepare and maintain a written record stating the reason(s) why the test was not promptly administer

6.3 Pre-placement Testing

- a. Before any new or existing **Covered Employee** first operates a County-owned vehicle or performs any other Safety-sensitive Function for Union County, he or she must submit to drug testing. The employee will not be permitted to drive a County vehicle or perform a Safety-sensitive Function unless the test is negative.
- b. Before any new or existing **Covered Employee who drives a Commercial Vehicle** first operates a commercial vehicle or performs other related safety-sensitive functions as defined in 49 C.F.R. 382.107, and before any new or existing **Covered Mass Transit Employee** first operates a Revenue Service Vehicle or performs related safety-sensitive functions as defined in 49 C.F.R. 655.4, the employee must submit to both drug and alcohol testing and receive a verified negative result for both. If the pre-placement drug test is canceled, the employee must take another pre-placement drug test with a verified negative result.
- c. When a **Covered Mass Transit Employee** has not performed a safety-sensitive function as defined in 49 C.F.R. 655.4 for 90 consecutive calendar days regardless of the reason, and the **Covered Mass Transit Employee** has not been in the random selection pool during that time, the **Covered Mass Transit Employee** must take a pre-placement drug test with a verified negative result.
- d. **Covered Applicants** applying for positions as **Covered Employees who drive a Commercial Vehicle** or **Covered Mass Transit Employees** are required (even if ultimately not hired) to provide Union County with signed written releases requesting FTA drug and alcohol records from all previous, DOT-covered employers that the applicant has worked for within the last two years. Failure to do so will result in the employment offer being rescinded. Union County is required to ask all such applicants (even if ultimately not hired) if they have tested positive or refused to test on a pre-employment test for a DOT-covered employer within the last two years. If the applicant has tested positive or refused to test on a pre-employment test for a DOT-covered employer, the applicant must provide Union County proof of having successfully completed a referral, evaluation, and treatment plan as described in 49 CFR § 655.62.

6.4. Random Testing

- a. Random testing will be done on a percentage basis in a fair and equal manner. Each time a random selection is made, every employee subject to testing will have an equal chance of being tested. Random tests shall be administered reasonably throughout the calendar year. Random test selection will be made by a scientifically valid method by using a computer based random number generator.

- b. **Covered Employees** are subject to unannounced drug tests throughout the year and may be tested at any time they are on duty. Pursuant to County policy (and not federal regulations), at least ten percent (10%) of the average number of **Covered Employees** shall be tested each year for drugs.
- c. **Covered Employees who drive Commercial Vehicles** and **Covered Mass Transit Employees** are subject to unannounced tests for both drugs and alcohol throughout the year and may be tested at any time they are on duty. The minimum percentage rates for random drug and alcohol testing for **Covered Employees who drive Commercial Vehicles** shall be at the current rates determined by FMCSA Administrator pursuant to 49 C.F.R. Part 382, as amended, and the minimum percentage rates for random drug and alcohol testing for **Covered Mass Transit Employees** shall be at the current rates determined by the FTA Administrator pursuant to 49 C.F.R. Part 655, as amended. **Covered Employees who drive Commercial Vehicles** and **Covered Mass Transit Employees** will be included in one random testing pool maintained separately from the testing pool of all other **Covered Employees** who are covered under the sole authority of Union County.
- d. When an employee is selected for random testing, both the employee and the employee's supervisor shall be notified on the day the test is scheduled to occur. The supervisor shall explain to the employee that he/she is under no suspicion of using alcohol or taking drugs and that the employee's name was selected randomly pursuant to this Policy.
- e. When employees are notified that they have been selected for random testing, they will proceed immediately to the collection site.

6.5. Return to Duty Testing

- a. **Covered Employees** who have been suspended from work based on a positive test for drugs or alcohol must submit to a drug or alcohol test before returning to work following the suspension period. A negative test result is required before the employee may be authorized to return to duty.
- b. A positive Return to Duty test shall result in termination.
- c. **Covered Employees who drive Commercial Vehicles** and **Covered Mass Transit Employees** are subject to return to duty testing following a verified positive drug test result, a confirmed alcohol test with a result indicating an alcohol concentration of 0.04 or greater, a refusal to test (including by adulterating or substituting a urine specimen) or any other violation of the prohibition on the use of alcohol or drugs under a DOT agency regulation. Such employees must have a negative drug test result and/or (depending upon which test is required) an alcohol test with an alcohol concentration of less than 0.02 before they will be allowed to resume any DOT safety-sensitive duties. The test cannot occur until after the SAP has determined that the employee has successfully complied with prescribed education and/or treatment. Nothing in this Section requires the County to return an employee to safety-sensitive duties because the employee has met these conditions.

6.6 Follow-up Testing

- a. **Covered Employees** who have been authorized to return to duty following suspension based on a positive test for drugs or alcohol must submit to a minimum of six (6) unannounced periodic Follow-up Tests within the first twelve (12) months following return to duty.
- b. Any **Covered Employees** returning to duty following completion of a voluntary drug rehabilitation program must submit to the same Follow-up Tests described above. If the **Covered Employee** is returning to duty following a self-referral or management referral to drug/alcohol rehabilitation (which was not precipitated by a positive test or a refusal to test on a DOT drug or alcohol test), the follow-up tests conducted will be on non-DOT forms but will be modeled off of the DOT procedures.
- c. A positive Follow-up Test will result in termination.
- d. Follow-up Testing is separate from and in addition to Random Testing. Employees subject to Follow-up Testing must also remain in the standard random pool and must be tested whenever their names come up for Random Testing, even if this means being tested twice in the same week or month.

SECTION 7

Refusal to Submit to a Test

Any of the following behaviors constitute a test refusal:

- a. Failure to appear for any test (except pre-employment) within a reasonable time, as determined by the Director or the Director's designee;
- b. Failure to remain at the testing site until the testing process is complete;
- c. Failure to provide a urine specimen for any required drug test;
- d. Failure to permit the observation or monitoring of the specimen collection when required to do so;
- e. Failure to provide a sufficient amount of urine when directed and there is no adequate medical explanation for the failure;
- f. Failure to take an additional test when directed to do so by the collector, the Director, or the Director's designee;
- g. Failure to undergo a medical examination when directed to do so by the MRO, the Director or the Director's designee;
- h. Failure to cooperate with any part of the testing process (e.g., refusal to empty pockets when directed by the collector, confrontational behavior that disrupts the collection process, failure to wash hands after being directed to do so by the collector);

- i. Failure to follow the observer's instructions during an observed collection including instructions to raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if the employee has any type of prosthetic or other device that could be used to interfere with the collection process;
- j. Possession or wearing of a prosthetic or other device that could be used to interfere with the collection process;
- k. Admission to the collector or MRO that the employee adulterated or substituted the specimen;
- l. Failure to provide an adequate amount of saliva or breath for any required alcohol test;
- m. Failure to provide a sufficient breath specimen when directed and there is no adequate medical explanation for the failure;
- n. Failure to sign the certification at Step 2 of the Alcohol Testing Form (ATF) if required by 49 CFR Part 40, as amended; and
- o. Failure to remain readily available for post-accident testing if subject to post-accident testing.

In addition, if the MRO reports that an employee has a verified adulterated or substituted test result, the employee will be deemed to have refused the test. Nothing in this Policy shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

SECTION 8

Testing Procedures

All alcohol and drug tests performed pursuant to this Policy shall be conducted at Carolina OCC MED, in Monroe, NC, or other clinical facility designated by Union County, which facility shall be responsible for complying with all applicable state and federal regulations governing alcohol and drug testing procedures and methodologies.

SECTION 9

Reporting of Results

Carolina Occ Med, or other clinic facility designated by Union County to perform employee alcohol and drug testing (the "laboratory"), shall report drug test results directly to the Medical Review Officer (MRO) within five (5) working days. The report shall indicate the drugs/metabolites tested for, whether the results are positive or negative, and the drug testing laboratory identification number. The laboratory shall report alcohol test results to the Director or his or her designee immediately.

SECTION 10

Review of Drug Results by MRO

THE MRO WILL REVIEW AND INTERPRET POSITIVE RESULTS OBTAINED FROM THE LABORATORY. THE MRO, THROUGH A VERIFICATION PROCESS, WILL ASSESS AND DETERMINE WHETHER ALTERNATE MEDICAL EXPLANATIONS COULD ACCOUNT FOR THE POSITIVE TEST RESULTS. THE MRO MAY CONDUCT MEDICAL INTERVIEWS OF THE TESTED INDIVIDUAL. ADDITIONALLY, THE MRO WILL EXAMINE ALL MEDICAL RECORDS AND DATA MADE AVAILABLE BY THE TESTED INDIVIDUAL, SUCH AS EVIDENCE OF PRESCRIBED MEDICATIONS.

- a. The MRO will review the findings of a drug test with the employee or **Covered Applicant** before a final determination is made that the employee or **Covered Applicant** did not pass the test. The purpose of this review is to ensure that the findings of a positive test are not based on factors other than the use of the drug for which the positive result is found. After the final decision is made, the MRO will notify the County as prescribed below.
- b. If during the course of an interview with an individual who has tested positive the MRO learns of a medical condition which could, in the MRO's reasonable medical judgment, pose a risk to safety, the MRO may report that information to the Director or his designee.
- c. The MRO will notify each employee or **Covered Applicant** who has a confirmed positive test that the employee or **Covered Applicant** has 72 hours in which to request a test of the split specimen. The employee or **Covered Applicant** shall have the right to retest a confirmed positive sample at the same or another approved laboratory. The employee or **Covered Applicant** must request release of the sample in writing specifying to which approved laboratory the sample is to be sent. If the employee or **Covered Applicant** makes such a request, the MRO will direct, in writing, the laboratory to provide the split specimen to a certified laboratory, as specified by the employee or **Covered Applicant**, for analysis. If the analysis of the split specimen fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, or if the split specimen is unavailable, inadequate for testing or un-testable, the MRO will cancel the test and report cancellation and the reasons for it to the DOT, the County, and the employee or **Covered Applicant**. A request for testing of the split sample and associated costs are the responsibility of the tested individual.
- d. If the MRO, after making and documenting all reasonable efforts, is unable to contact the tested person, the MRO will contact the Director to arrange for the employee or **Covered Applicant** to contact the MRO prior to going on duty. If, within five (5) days after a documented contact by the Director instructing the employee or **Covered Applicant** to contact the MRO, the employee or **Covered Applicant** has not done so, the MRO will verify the test positive and report it to the County.
- e. Notwithstanding any other provision stated herein, the MRO shall comply with all applicable state and federal laws in effect at the time of the testing.

SECTION 11

Compliance with Law

- a. The County will maintain alcohol and drug test results in a secure and confidential manner, so that disclosure of information to unauthorized persons does not occur. Employee or **Covered Applicant** information shall only be released as legally required or expressly authorized.
- b. Searches and seizures are to be conducted in a legal manner. The County reserves the right to conduct searches or inspections of property assigned to an employee whenever a department head or his or her designee determines that the search is reasonable under all the circumstances. Failure to consent to, or cooperate with, such inspections will be grounds for disciplinary action up to and including discharge.
- c. The County will notify the North Carolina Division of Motor Vehicles within five (5) business days following receipt of a positive drug or alcohol test or a refusal to submit to a required test for all employees or **Covered Applicants** who drive commercial vehicles or work for agencies that receive federal transit funds, as required by N.C.G.S. § 20-37.19(c). Such notification shall include the employee's name, driver's license number, social security number, and test results or documentation of employee's refusal to take the test.
- d. The Drug Free Workplace Act of 1988 requires all County employees to notify the County within five calendar days after any criminal conviction for the manufacture, distribution, dispensation, possession, or use of narcotics, drugs, or any other controlled substance at the workplace. Criminal conviction means a finding of guilt, a plea of no contest, or a plea of guilty. The County shall then be required to notify all federal contracting agencies and grantors of such conviction within ten days of receiving notice of the conviction.
- e. This policy is intended to comply will all applicable federal regulations governing workplace anti-drug and alcohol programs in the transportation industry. This specifically includes, without limitation, 49 CFR Parts 382 and 655, as amended (published by the FTA and the FMCSA of the DOT), which mandate urine drug testing and alcohol breath testing for Safety-Sensitive positions and prohibit performance of Safety-sensitive functions when there is a positive test; and 49 CFR Part 40, as amended (published by DOT), which sets standards for the collection and testing of urine and breath specimens.

SECTION 12

Contact

Any inquiries regarding this Policy should be directed to the Union County Executive Director of Human Resources, who is the County Official designated to answer questions about this Policy. The Director is located in the Union County Government Center, 500 N. Main Street, Suite 130, Monroe, N.C. The phone number is (704) 283-3869.

ADDENDUM # 3

Revised October 17, 2011, August 15, 2016

PROVISIONS APPLICABLE TO COVERED MASS TRANSIT EMPLOYEES, COVERED EMPLOYEES WHO DRIVE COMMERCIAL VEHICLES, AND COVERED APPLICANTS FOR SUCH POSITIONS

SECTION 1

Applicability

The provisions in this Addendum #3 (hereinafter “Addendum”) are only applicable to Covered Mass Transit Employees, Covered Employees who drive Commercial Vehicles, and Covered Applicants for such positions. The provisions shall be read to be in addition to those provisions set forth in the Union County Drug and Alcohol Free Workplace Policy, as amended (the “Policy”). Where there is a conflict between this Addendum and the Policy, this Addendum shall control.

SECTION 2

Definitions

Adulterated specimen means a specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

Aliquot means a fractional part of a specimen used for testing. It is taken as a sample representing the whole specimen.

Confirmatory Drug Test means a second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or metabolite.

Confirmatory Validity Test means a second test performed on a different aliquot of the original urine specimen to further support a validity test result.

Dilute Specimen means a urine specimen with creatine and specific gravity values that are lower than expected for human urine.

Disabling Damage means damage that precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs. This definition includes damage to a motor vehicle, where the vehicle could have been driven, but would have been further damaged if so driven. This definition excludes: damage that can be remedied temporarily at the scene of the accident without special tools or parts; tire disablement without other damage even if no spare tire is available; headlamp or tail light damage; and damage to turn signals, horn, or windshield wipers, which makes the vehicle inoperable.

HHS means the Department of Health and Human Services or any designee of the Secretary, Department of Health and Human Services.

Initial Drug Test or Screening Drug Test means the test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

Initial Specimen Validity Test means the first test used to determine if a urine specimen is adulterated, diluted, substituted, or invalid.

Invalid Result or Invalid Drug Test means the result reported by an HHS-certified laboratory in accordance with the criteria established by the HHS Mandatory Guidelines when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.

Laboratory means any U.S. laboratory certified by HHS under the National Laboratory Certification Program as meeting the minimum standards of Subpart C of the HHS Mandatory Guidelines for Federal Workplace Drug Test Programs; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under this part.

Limit of Detection (LOD) means the lowest concentration at which a measurand can be identified, but (for quantitative assays) the concentration cannot be accurately calculated.

Limit of Quantitation means for quantitative assays, the lowest concentration at which the identity and concentration of the measurand can be accurately established.

Negative, with respect to the results of a **drug test**, means a test result that is reported when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen.

Negative Dilute means a drug test result which is negative for the five drug/drug metabolites but has a specific gravity value lower than expected for human urine.

Positive, with respect to the results of a **drug test**, means the test result that is reported when a specimen contains a drug or drug metabolite equal to or greater than the cutoff concentrations.

Reconfirmed means the result reported for a split specimen when the second laboratory is able to corroborate the original result reported for the primary specimen.

Rejected for Testing means the result reported when no tests are performed for a specimen because of a fatal flaw or a correctable flaw that has not been corrected.

Split Specimen Collection means a collection in which the urine collected is divided into two separate bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

Substituted Specimen means a urine specimen with creatinine and specific gravity values that are so diminished that they are not consistent with normal human urine.

Validity Testing means the evaluation of the specimen to determine if it is consistent with normal human urine. Specimen validity testing will be conducted on all urine specimens provided for testing under DOT authority. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted

SECTION 3

Drug Testing Procedures

- a. The drugs that will be tested for include marijuana, cocaine, opiates, amphetamines, and phencyclidine. Initial testing for heroin will be mandatory for all opiate positives.

- b. After the identity of the donor employee/applicant is checked using picture identification, a urine specimen will be collected using the split specimen collection method described in 49 CFR Part 40, as amended. Each specimen will be accompanied by a DOT Chain of Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a HHS certified laboratory. An initial drug screen and validity test will be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS test are above the minimum thresholds established in 49 CFR Part 40, as amended.
- c. The test results from the HHS certified laboratory will be reported to the MRO, and the MRO will review the results as described in Section 10 of the Union County Drug and Alcohol Free Workplace Policy and as required by 49 CFR Part 40, as amended.
- d. Employees that have a verified positive drug test result or a test refusal due to adulteration or substitution may request a test of their split specimen. However, employees do not have access to a test of their split specimen following an invalid result. The split sample test must be conducted at a second HHS-certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the primary sample. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the MRO within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts that were beyond the control of the employee. Union County will ensure that the cost for the split specimen is covered in order for a timely analysis of the sample. However, Union County will seek reimbursement for the split sample test from the employee.
- e. If a test is invalid without a medical explanation, a retest will be conducted under direct observation. Employees do not have access to a test of their split specimen following an invalid result.
- f. Following a negative dilute result, the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
- g. Observed collections
 - 1. Observed collections are required in the following circumstances:
 - i. All return-to-duty tests;
 - ii. All follow-up tests;
 - iii. Anytime the temperature on the original specimen was out of the accepted temperature range;
 - iv. Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with;
 - v. Anytime a collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;

- vi. Anytime the laboratory reported to the MRO that the original specimen was invalid and the MRO determined that there was not an adequate medical explanation for the result;
 - vii. Anytime the MRO reports that the original specimen was positive, adulterated or substituted, but had to be cancelled because the test of the split specimen could not be performed;
 - viii. Anytime the laboratory reports to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen to the County as negative-dilute and that a second collection must take place under direct observation.
2. The employee who is being observed will be required to raise his or her shirt, blouse, or dress/skirt, as appropriate, above the waist; and lower clothing and underpants to show the collector, by turning around that they do not have a prosthetic device.

SECTION 4

Alcohol Testing Procedures

Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). Alcohol screening tests may be performed using a non-evidential testing device which is also approved by NHSTA. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted at least fifteen minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT. The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed by 49 CFR Part 40, as amended, to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.

SECTION 5

Test Refusals

An employee's refusal to take a required drug or alcohol test is a violation of the Union County Drug and Alcohol Free Workplace Policy. An employee who violates this Policy by refusing to take a required drug or alcohol test may not subsequently perform any Safety-Sensitive Function for the County unless and until he or she completes a SAP evaluation, referral, and education/treatment process and shall be subject to return-to-duty and follow up testing, as set forth in 49 C.F.R. Part 40.

An employee or applicant who leaves the testing site before the testing process commences for a pre-placement test is not deemed to have refused to test. An employee or applicant who does not provide a urine specimen because he or she has left the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test. An employee or applicant who does not provide an adequate amount of breath or saliva because he or she has left the testing site before the testing

process commences for a pre-placement test is not deemed to have refused to test. It is considered a refusal to take a test if the employee:

- i. fails to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, after being directed by the employer to do so;
- ii. fails to remain at the testing site until the testing is complete;
- iii. fails to provide a urine specimen for any drug or alcohol test required by 49 CFR Part 40 or any other DOT agency regulations;
- iv. in the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the employee's provision of a specimen;
- v. fails to provide a sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- vi. fails or declines to take a second test the employer or collector has directed the employee to take;
- vii. fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of the "shy bladder" or "shy lung" procedures;
- viii. fails to cooperate with any part of the testing process (e.g., refuses to empty pockets when directed by the collector, behaves in a confrontational way that disrupts the collection process, fails to wash hands after being directed to do so by the collector);
- ix. has a test result that the MRO reports is verified adulterated or substituted;
- x. fails or refuses to sign Step 2 of the alcohol testing form;
- xi. fails to follow the observer's instructions during an observed collection, including instructions to raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if the employee has any type of prosthetic or other device that could be used to interfere with the collection process;
- xii. possesses or wears a prosthetic or other device that could be used to interfere with the collection process; or
- xiii. admits to the collector or MRO that the employee adulterated or substituted the specimen.

SECTION 6

Drug and Alcohol Tests

Revised October 17, 2011

6.1 Pre-Placement Testing

Applicants are required (even if ultimately not hired) to provide Union County Transportation with signed written releases requesting FTA drug and alcohol records from all previous, DOT-covered employers that the applicant has worked for within the last two years. The failure to do so will result in the employment offer, if any, being rescinded. Union County Transportation is required to ask all applicants (even if ultimately not hired) if they have tested positive or refused to test on a pre-employment test for a DOT covered employer within the last two years. If the applicant has tested positive or refused to test on a pre-employment test for another DOT covered employer, the applicant must provide Union County proof of having successfully completed a referral, evaluation and treatment plan as described in 49 CFR § 655.62.

6.2 Follow-up Testing

An employee who violates this policy by refusing to take a required drug or alcohol test or by having a verified positive drug test or by having a confirmed alcohol test result of 0.04 or greater, and who seeks to resume the performance of safety-sensitive functions, will be required to undergo frequent, unannounced drug and/or alcohol testing following their return-to-duty in accordance with a written follow-up testing plan to be established by the SAP after the SAP determines that the employee has successfully complied with the SAP's recommendations for education and/or treatment. The SAP is the sole determiner of the number and frequency of follow-up tests and whether these tests will be for drugs, alcohol, or both, unless otherwise directed by the appropriate DOT agency regulations. However, the SAP must, at a minimum, direct that the employee be subject to six unannounced follow-up tests in the first 12 months of safety-sensitive duty following the employee's return to safety-sensitive functions. The requirements of the SAP's follow-up testing plan "follow the employee" to subsequent employers or through breaks in service in accordance with the provisions in 49 CFR Part 40. The employee will not be allowed to continue to perform safety-sensitive functions unless follow-up testing is conducted as directed by the SAP.

SECTION 7

49 CFR Part 382

- a. The provisions in 49 CFR Part 382, as amended, apply to Covered Employees who drive a Commercial Vehicle.
- b. The following list indicates the tests required by 49 CFR Part 382, and is meant to satisfy the requirement in 49 CFR § 382.113 that employers notify employees of tests required by Part 382. This list should not in any way be interpreted to limit the tests provided for in this Policy. 49 CFR Part 382 requires (for Covered Employees who drive Commercial Vehicles):
 1. Drug testing with a verified negative result prior to allowing a Covered Mass Transit Employee or applicant to perform a safety sensitive function (as defined by Part 382) for the first time. However, Part 382 does not require a drug test in this situation if: (1) the driver has participated in a controlled substances testing program that meets the requirements of Part 382 within the previous 30 days; and (2) while participating in that program, the driver either (i) was tested for controlled substances within the past 6 months (from the date of application with the County), or (ii) participated in the random controlled substances testing program for the previous 12 months (from the date of application with the County); and (3) the County ensures that no prior employer of the driver of whom the County has knowledge has records of a violation of Part 382 or the controlled substances use rule of another DOT agency within the previous six months.
 2. Post-accident testing under 49 CFR § 382.303, as described in Section 6.2(c) of the Policy.
 3. Random testing for prohibited drug use anytime the employee is on duty.
 4. Random testing for alcohol misuse while the Covered Employee is performing safety-sensitive functions (as defined by 49 CFR Part 382); just before the Covered Employee is to perform such functions, or just after the Covered Employee has ceased performing such functions.

5. Reasonable suspicion testing for alcohol misuse if the required observations of appearance, behavior, speech, or body odors are made while the Covered Employee is performing safety-sensitive functions (as defined by 49 CFR Part 382), just preceding the performance of safety-sensitive functions (as defined by 49 CFR Part 382), or just after the Covered Employee has ceased performing safety-sensitive functions (as defined by 49 CFR Part 382);
 6. Alcohol and/or drug testing when the County has reasonable suspicion to believe that the employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion alcohol testing is authorized under 49 CFR Part 382 only if the required observations are made during, just preceding, or just after the period of the workday that the employee is required to be in compliance with 49 CFR Part 382, and the employee is directed to undergo the test while performing safety-sensitive functions (as defined by 49 CFR Part 382), just before the employee is to perform such functions, or just after the employee has ceased performing such functions.
 7. If an employee has a verified positive DOT drug test result, a DOT alcohol test with a result indicating an alcohol concentration of 0.04 or greater, or a refusal to test (including by adulterating or substituting a urine specimen) or any other violation of the prohibition on the use of alcohol or drugs under a DOT agency regulation, 49 CFR Part 382 requires return-to-duty drug and/or alcohol testing prior to the return of the employee to safety-sensitive duties (as defined by 49 CFR Part 382). Such testing must occur after the SAP has determined that the employee has successfully complied with prescribed education and/or treatment.
 8. Follow-up testing of each employee who returns to duty in accordance with a written follow-up testing plan to be established by the SAP.
- c. 49 CFR Part 382 authorizes pre-employment alcohol testing in accordance with 49 CFR § 382.301.
 - d. 49 CFR Part 382 defines “safety-sensitive function” to mean “all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work.” Under this part “safety-sensitive functions” include: (1) All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer; (2) All time inspecting equipment as required by Sections 392.7 and 392.8 of Part 382 or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time; (3) All time spent at the driving controls of a commercial motor vehicle in operation; (4) All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth; (5) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and (5) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

SECTION 8

49 CFR Part 655

- a. The provisions in 49 CFR Part 655, as amended, apply to Covered Mass Transit Employees. The Union County Drug and Alcohol Free Workplace Policy implements elements of an anti-drug use and alcohol misuse program that are not required by 49 CFR Part 655.
- b. The following list indicates the tests required by 49 CFR Part 655, and is meant to satisfy the requirement in 49 CFR § 655.17 that employers notify employees of tests required by Part 655. This

list should not in any way be interpreted to limit the tests provided for in this Policy. 49 CFR Part 655 requires:

1. Drug testing with a verified negative result prior to allowing a Covered Mass Transit Employee or applicant to perform a safety sensitive function (as defined by Part 655) for the first time.
2. Drug testing with a verified negative result prior to allowing a Covered Mass Transit Employee to perform a safety sensitive function if the Covered Mass Transit Employee has not performed a safety sensitive function (as defined by 49 CFR Part 655) for 90 consecutive calendar days regardless of the reason and the employee has not been in the random selection pool during that time.
3. Alcohol testing if a Covered Mass Transit employee acknowledges the use of alcohol while on-call but claims the ability to perform his or her safety-sensitive function (as defined by 49 CFR Part 655).
4. Alcohol and/or drug testing when the County has reasonable suspicion to believe that the Covered Mass Transit Employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion alcohol testing is authorized under 49 CFR Part 655 only if the required observations are made during, just preceding, or just after the period of the workday that the Covered Mass Transit Employee is required to be in compliance with 49 CFR Part 655, and the employee is directed to undergo the test while performing safety-sensitive functions (as defined by 49 CFR Part 655), just before the employee is to perform such functions, or just after the employee has ceased performing such functions.
5. Random testing for alcohol misuse while the Covered Mass Transit Employee is performing safety-sensitive functions (as defined by 49 CFR Part 655); just before the Covered Mass Transit Employee is to perform such functions; or just after the Covered Mass Transit Employee has ceased performing such functions.
6. Random testing for prohibited drug use anytime a Covered Mass Transit Employee is on duty.
7. Post-accident drug and alcohol testing under 49 CFR § 655.44 as described by Section 6.2(c) of the Policy.
8. If a Covered Mass Transit Employee has a verified positive DOT drug test result, a DOT alcohol test with a result indicating an alcohol concentration of 0.04 or greater, or a refusal to test (including by adulterating or substituting a urine specimen) or any other violation of the prohibition on the use of alcohol or drugs under a DOT agency regulation, 49 CFR Part 655 requires return-to-duty drug and/or alcohol testing prior to the return of the employee to safety-sensitive duties (as defined by 49 CFR Part 655). Such testing must occur after the SAP has determined that the employee has successfully complied with prescribed education and/or treatment.
9. Follow-up testing of each Covered Mass Transit Employee who returns to duty in accordance with a written follow-up testing plan to be established by the SAP.

c. 49 CFR Part 655 authorizes pre-employment alcohol testing in accordance with 49 CFR § 655.42.

- d. 49 CFR Part 655 defines “safety-sensitive function” to mean any of the following duties: (1) Operating a revenue service vehicle, including when not in revenue service; (2) Operating a nonrevenue service vehicle, when required to be operated by a holder of a Commercial Driver’s License; (3) Controlling dispatch or movement of a revenue service vehicle; (4) Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service; and (5) Carrying a firearm for security purposes.

ARTICLE XIV. TAXATION OF CERTAIN EMPLOYEE BENEFITS

SECTION 1

Purpose

The purpose of this Article is to establish organizational guidelines concerning the use and taxation of certain fringe benefits provided to County employees, other than those benefits addressed in other Articles of this Resolution. The intent of this Article is to provide employees who receive particular fringe benefits an understanding of the taxable nature of those benefits and the procedures that must be followed in order to receive certain fringe benefits.

SECTION 2

Applicability

The fringe benefits set forth in this Article are not necessarily inclusive of all fringe benefits that may be provided by the County, nor is it the case that all employees will receive these benefits. Many of these fringe benefits are provided on a case-by-case basis, or only to certain classes of employees, in order to provide for the business needs of the County. If the provisions of this Article ever conflict with federal and state law, regulations, or controlling guidance relating to the taxation of fringe benefits, then such law, regulations, or guidance shall take precedence over the provisions of this Article. If a fringe benefit is provided by the County, and such a fringe benefit is not directly addressed in this Section, the taxation of such a fringe benefit is subject to all applicable federal and state law, regulations, and guidance.

SECTION 3

Definitions

- 1) De Minimis Fringe Benefit- A fringe benefit, provided by the County to an employee, that has so little value (taking into account how frequently similar fringe benefits are provided by the County to employees) as to make accounting for it unreasonable or administratively impracticable. Such a fringe benefit is excluded from taxable income.
- 2) De Minimis Meal- Any occasional meal, or meal money, provided to an employee that has so little value (taking into account how frequently such meals are provided to employees) that accounting for it would be unreasonable or administratively impracticable. Examples of such meals include, but are not limited to, 1) coffee, doughnuts, or soft drinks; 2) occasional meals (or meal money) provided to an employee to work overtime; and 3) occasional parties, picnics, or similar events for employees and their guests.
- 3) Deductible Moving Expenses- Only the reasonable moving expenses, which meet the IRS' distance and time tests, of 1) moving household goods and personal effects from the former home to the new home, and 2) travel (including lodging) from the former home to the new home. This does not include any expenses for meals.
- 4) Meal on Business Premises- Meal furnished to an employee that is 1) furnished on the County's business premises, and 2) furnished for the convenience of the County. A meal furnished for the convenience of the County is a meal provided for a substantial business reason other than to provide an employee with additional pay.
- 5) Nontaxable Clothing- This is clothing or uniforms that 1) must be worn as a condition of employment and 2) that are not suitable for everyday wear. Additionally, the County only considers such clothing to be not suitable for everyday wear if the clothing has a readily distinguishable logo and the employee is prohibited from wearing the clothing off-duty. Examples of clothing that meet this definition are law enforcement uniforms, firefighter uniforms, some health care workers' clothing, and transportation workers.

- 6) Qualified Nonpersonal Use Vehicle- As defined in the Code of Federal Regulations (26 C.F.R. 1.274-5(k)), any vehicle which, by reason of its nature (that is, design), is not likely to be used more than a *de minimis* amount for personal purposes.
- 7) Working Condition Fringe Benefit- Expense for property or services provided to an employee by the County so that the employee can perform his or her job, which could be deducted as a business or depreciation expense if the employee paid for such an expense.

SECTION 4

Procedure

If an employee is receiving a fringe benefit from the County, it is the responsibility of the Executive Director or Division Director in control of the fringe benefit to ensure that such a fringe benefit is tracked and reported as described in this Article, as well as in any other applicable County policies or procedures. Executive Directors and Division Directors should determine, by consulting this Article, as well as the Finance Division as necessary, whether a particular fringe benefit is taxable. If such a fringe benefit is taxable, then the employee's Division Director or Executive Director, as applicable, shall submit a "Fringe Benefit Certification Form" to the Finance Division, in order to allow for the Finance Division to include the value of such a fringe benefit on the employee's pay records and tax forms as taxable income.

SECTION 5

Types of Fringe Benefits

5.1 Achievement Awards

The value of an achievement award, up to certain prescribed amounts, is excluded from taxable income if the award meets the requirements of an employee achievement award as described in IRS Publication 535, or any similar successor publication. Currently, if an achievement award is made under a qualified award plan, as that term is described in IRS Publication 535, the value of the achievement award in an amount up to \$1,600 may be excluded from taxable income. However, if the achievement award is not made under a qualified award plan, currently the value of the achievement award up to \$400 may be excluded from taxable income.

5.2 Athletic Facilities

The value of an employee's use of an on-premises gym or other athletic facility that is operated by the County, and which is substantially used during the calendar year by County employees, spouses, or their dependent children, is excluded from taxable income.

5.3 Cell Phone Service

The value of a County-provided cell phone, which is provided primarily for non-compensatory business reasons, is excluded from taxable income. The value of this fringe benefit is excluded from taxable income as a type of Working Condition Fringe Benefit. A cell phone is considered provided primarily for non-compensatory business purposes if there are substantial business reasons for providing the employee the cell phone (such as the need to contact the employee at all times for work-related emergencies or the requirement that the employee be available to speak with clients and other personnel when the employee is away from the office). Personal use of a County-provided cell phone, provided primarily for non-compensatory business reasons, is excluded from taxable income as a *De Minimis* Fringe Benefit. However, the County may elect to charge an employee for any and/or all personal use of such a County-provided cell phone.

5.4 Clothing Allowance

The actual cash value of a clothing allowance the County provides to an employee, unless an allowance for Nontaxable Clothing, is considered taxable income. An allowance for Nontaxable Clothing is excluded from taxable income.

5.5 Clothing and Uniforms

The actual cash value of clothing and uniforms provided to an employee is considered taxable income, unless it meets the definition of Nontaxable Clothing. The value of Nontaxable Clothing is excluded from taxable income. The value of protective clothing and equipment (such as steel-toed boots, work gloves, hard hats and safety gloves) required for work the County provides to an employee is excluded from taxable income.

It is not enough that an employee is prohibited by policy from wearing the clothes off-duty, as all of the factors above must be met in order for the value of such clothing and uniform to be excluded from taxable income as Nontaxable Clothing. The value of polo shirts with County logos, scrubs, Carhart jackets, cargo pants, khaki pants, and blue jeans are considered taxable. There is no value of clothing, no matter how small, that would be considered a *De Minimis* Fringe Benefit. The value of clothing an employee is required to return to the County at the end of employment is considered taxable if it does not meet the criteria for Nontaxable Clothing. Additionally, an employee who wears any returned clothing is considered to receive taxable income at the fair market value of the clothing (the value is considered similar to the value of such clothing at a second-hand clothing store).

5.6 Educational Assistance

The value of educational assistance provided to employees is excluded from taxable income if such educational assistance is provided under an educational assistance program. An educational assistance program must meet the IRS' requirements for such a program in order for the value of such educational assistance to be excluded from taxable income. If an educational assistance program meeting IRS requirements is not in place, or educational assistance provided exceeds the amount set by the IRS, the value of the benefit must be considered taxable income, unless the benefit is considered a Working Condition Fringe Benefit. Such an educational assistance benefit is considered a Working Condition Fringe Benefits to the extent that if the employee paid for the education on their own, the amount paid would have been deductible as a business or depreciation expense.

5.7 Equipment

The County may issue employer-provided equipment (such as computer equipment, cell phones, services to permit remote access, tools, and other similar materials) in order for an employee to conduct business and perform assigned tasks. Any such equipment provided to an employee is County-owned property. This equipment must be returned to the County upon the County's request, or at the time of the employee's separation from employment with the County. Such equipment shall only be used for County business purposes, which value of such use is excluded from taxable income. However, if such equipment is either purchased for personal use by an employee, or not returned upon an employee's separation from employment with the County, the value of such equipment will then be considered taxable to the employee.

5.8 Gifts

The value of a gift, such as a holiday gift, the County gives an employee may be considered either a *De Minimis* Fringe Benefit or a taxable fringe benefit, depending on the nature of such a gift. A gift that is considered a *De Minimis* Fringe Benefit is any property or service given as a gift to an employee which gift's value, taking into account the frequency with which the employer provides similar fringe benefits, is so small that accounting for it would be unreasonable or administratively impractical. Examples of such gifts include plaques, coffee mugs, and traditional holiday gifts of property (not cash or a "cash-equivalent") with low fair market value.

The value of any gift that is not considered a *De Minimis* Fringe Benefit is considered a taxable fringe benefit. Cash, or a "cash equivalent" (such as a gift card redeemable for general merchandise or having a cash equivalent value), is considered taxable and not a *De Minimis* Fringe Benefit, regardless of the fair market value of such a gift.

5.9 Group-Term Life Insurance

The cost of County-provided group term life insurance that meets the conditions set forth by the IRS is considered excluded from taxable income for up to the first \$50,000 of coverage. The cost of group-term life insurance coverage in excess of \$50,000 is considered taxable. Any employee receiving more than \$50,000 of group-term life insurance coverage paid for by the County will have the cost of the coverage in excess of \$50,000 included as taxable income. The cost of group-term life insurance coverage is calculated based upon IRS Guidelines, found in IRS Publication 15B, Employer's Tax Guide to Fringe Benefits, or any similar successor publication.

5.10 Meals

The value of reimbursement expenses, or per diem costs, for an employee's meals occurring during Travel Away From Home, as that term is defined in the Union County Travel Policy, is considered excluded from taxable income. Business Meals, as that term is defined in the Union County Travel Policy, are excluded from taxable income as a Working Condition Fringe Benefit, so long as the Business Meal is substantiated as required by Union County's Travel Policy. The value of a *De Minimis* Meal is also excluded from taxable income. The value of a Meal on Business Premises is excluded from taxable income. However, in order for the County to reimburse a Meal on Business Premises, the County must be provided documentation as to who attended the meal, the purpose surrounding the meal, the date of the meal, and the place of the meal. The purpose will be considered acceptable if 1) the main purpose of the meal is to actively conduct business and 2) business is actually conducted during the meal. Meals provided to promote goodwill, boost morale, or attract prospective employees are not excluded from taxable income, unless such a meal qualifies as a *De Minimis* Meal.

5.11 Moving Expense Reimbursement

Reimbursement of moving expenses given directly or indirectly to an employee (including services furnished in kind) are excluded from taxable income only to the extent those expenses are Deductible Moving Expenses. However, the value of such reimbursement is considered taxable if the employee actually deducted those expenses from their income taxes in a previous year. More specific information regarding moving expenses may be found in guidelines published by the IRS, available in IRS Publication 521, Moving Expenses, or any similar successor publication. The County's preference is to pay a mover directly, rather than to reimburse an employee for such expenses.

5.12 Parking

The value of parking provided by the County for use by employees on or near the County's business premises is excluded from taxable income.

5.13 Retirement Planning Services

The value of any retirement planning advice or information the County provides to an employee or his or her spouse is excluded from taxable income. This includes not only the value of advice related to a qualified employer-provided retirement plan, but any general advice or information on retirement as well. This exclusion from taxable income does not apply to services for tax preparation, accounting, legal, or brokerage services.

5.14 Temporary Living Expenses

The value of the County's reimbursement of an employee's temporary living expenses is considered a taxable fringe benefit.

5.15 Travel Allowance

A monthly travel allowance the County pays to an employee for use of a vehicle associated with their job is considered a taxable fringe benefit.

5.16 Use of County Vehicles

The use of a County-owned vehicle for personal use is a taxable fringe benefit. The Union County Vehicle Use Policy generally prohibits the use of a County-owned vehicle for private or personal use. However, the County may assign a vehicle to an employee, which will include the use of the vehicle for commuting purposes when it is necessary for the performance of an employee's duties. Commuting to and from work in a County owned vehicle is considered personal use by the IRS, even if the vehicle is taken home for the convenience of the County. The County uses the "commuting rule," as set forth by the IRS, to determine the value of the vehicle provided to an employee for commuting. Each one-way commute (one trip from home to work or vice-versa) is multiplied by the current IRS rate under the commuting rule to calculate the value of the commuting use of the vehicle, which is considered taxable income. If more than one employee is required to commute in such a vehicle, this value applies to each employee.

However, the IRS considers all of an employee's use of a Qualified Nonpersonal Use Vehicle a Working Condition Benefit, which is excluded from taxable income. By way of illustration, examples of Qualified Nonpersonal Use Vehicles are marked Sheriff's Office vehicles; unmarked Sheriff's Office vehicles used by law enforcement officers if such use is authorized and meets the requirements of the Code of Federal Regulations requirements for such vehicles; marked Fire Marshal's vehicles; any vehicle designed to carry cargo with a loaded gross vehicle weight over 14,000 pounds; dump trucks (including garbage trucks); flatbed trucks; and any specialized utility repair trucks (not including a van or pickup truck) specifically designed and used to carry heavy tools, equipment, or parts, if shelves, racks or other permanent interior construction have been installed to carry and store such items (this does not include a pick-up truck with only a toolbox attached).

ADDENDUM # 1

Revised: June 7, 2010, May 16, 2011

SEVERANCE COMPENSATION FOR EMPLOYEES SEPARATED DUE TO REDUCTION IN FORCE AFTER JANUARY 20, 2009, BUT BEFORE JULY 1, 2009, AFTER JUNE 30, 2010, BUT BEFORE JULY 31, 2010, OR AFTER JUNE 1, 2011, BUT BEFORE NOVEMBER 30, 2011

An employee who meets the following criteria shall be eligible for a severance payment in accordance with the terms of this Addendum to the Union County Personnel Resolution:

- (1) The employee is involuntarily separated from employment with the County (i) after January 20, 2009, but before July 1, 2009, (ii) after June 30, 2010, but before July 31, 2010, or (iii) after June 1, 2011, but before November 30, 2011, due to a reduction in force; and
- (2) The employee is (i) a full-time, permanent employee or (ii) a regular part-time employee; and
- (3) The employee is not on probationary status pursuant to Article IV, Section 10 of the Union County Personnel Resolution. (Employees subject to the State Personnel Act who have not reached career status pursuant to N.C.G.S. § 126-1.1 shall be eligible for a severance payment in accordance with the terms of this Addendum provided that they are not on probationary status pursuant to Article IV, Section 10 of the Union County Personnel Resolution and that they otherwise satisfy the eligibility criteria of this Addendum.)

The amount of severance to be provided under this Addendum shall be calculated as set forth on the following page. The County will deduct from such severance payments all applicable withholding taxes and any other mandatory deductions.

<u>Hours Worked Annually</u>	<u>% of Standard</u>	<u>Years of Service Based on Most recent Date of Hire</u>	<u>Severance Hours to be Paid</u>	<u>Severance Health Insurance Stipend</u>	
2080	Standard	Less than 2 years	96	\$500.00	
2080	Standard	2 but less than 5 years	112	\$1,000.00	
2080	Standard	5 but less than 10 years	136	\$1,500.00	
2080	Standard	10 but less than 15 years	160	\$2,000.00	
2080	Standard	15 but less than 20 years	184	\$2,500.00	
2080	Standard	20 years or more	208	\$3,000.00	
2184	105%	Less than 2 years	101	\$500.00	
2184	105%	2 but less than 5 years	118	\$1,000.00	
2184	105%	5 but less than 10 years	143	\$1,500.00	
2184	105%	10 but less than 15 years	168	\$2,000.00	
2184	105%	15 but less than 20 years	193	\$2,500.00	
2184	105%	20 years or more	219	\$3,000.00	
1768	85%	Less than 2 years	82	0	
1768	85%	2 but less than 5 years	95	0	
1768	85%	5 but less than 10 years	116	0	
1768	85%	10 but less than 15 years	136	0	
1768	85%	15 but less than 20 years	156	0	
1768	85%	20 years or more	177	0	
1560	75%	Less than 2 years	72	0	
1560	75%	2 but less than 5 years	84	0	
1560	75%	5 but less than 10 years	102	0	
1560	75%	10 but less than 15 years	120	0	
1560	75%	15 but less than 20 years	138	0	
1560	75%	20 years or more	156	0	
1325	65%	Less than 2 years	62	0	
1325	65%	2 but less than 5 years	73	0	
1325	65%	5 but less than 10 years	88	0	
1325	65%	10 but less than 15 years	104	0	
1325	65%	15 but less than 20 years	120	0	
1325	65%	20 years or more	136	0	
1144	55%	Less than 2 years	53	0	
1144	55%	2 but less than 5 years	60	0	
1144	55%	5 but less than 10 years	75	0	
1144	55%	10 but less than 15 years	88	0	
1144	55%	15 but less than 20 years	101	0	
1144	55%	20 years or more	114	0	

ADDENDUM # 2

UNION COUNTY CODE OF CONDUCT FOR CONTRACTS SUPPORTED BY FEDERAL GRANT FUNDS

I. PURPOSE

The purpose of this Code is to set forth the standards of conduct that shall govern the selection process, the award, and the administration of contracts supported by federal grant funds, including those in which federal grant funds are passed through to the County as a grant from another agency (i.e. State agency), as well as to set forth standards of conduct that are specific to Union County's Community Development Block Grant Program. This Code shall be in addition to those applicable standards of conduct related to procurement found in State law, the Union County Personnel Resolution, the Union County Procurement Policy, and any other local law or policy. To the extent that any of these additional standards and requirements conflict with those set forth in this Code, the most restrictive standard/requirement shall control.

II. STANDARDS

No employee, officer or agent of Union County shall participate in selection, or in the award or administration of a contract supported by Federal grant funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- the employee, officer or agent,
- any member of his/her immediate family,
- his/her partner, or
- an organization which employs, or is about to employ, any of the above,

has a financial or other interest in the firm selected for award.

Notwithstanding the foregoing, if the financial interest is insubstantial, then the minimum rules set by N.C. Gen. Stat. § 14-234 shall constitute the applicable rules for conflicts of interest.

Employees, officers, and agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements of projects supported by Federal grant funds. As provided in N.C. Gen. Stat. § 133-32, this Section II(2) is not intended to prevent the following: (i) the receipt of an unsolicited gift of nominal intrinsic value a public servant would be permitted to accept under N.C. Gen. Stat. § 138A-32, (ii) the receipt of unsolicited honorariums of nominal intrinsic value for participating in meetings, (iii) the receipt of unsolicited advertising items or souvenirs of nominal value, (iv) the receipt of unsolicited meals furnished at banquets if such meals are of nominal intrinsic value, (v) a donation by a contractor, subcontractor, or supplier to a professional organization to defray meeting expenses where governmental employees are members of such professional organizations, and (vi) the participation by governmental employees who are members of professional organizations in all scheduled meeting functions available to all members of the professional organization attending the meeting.

III. PENALTIES, SANCTIONS, OR OTHER DISCIPLINARY ACTIONS FOR VIOLATIONS OF THE STANDARDS SET FORTH IN SECTION II

To the extent permitted by applicable law, a County officer, employee, agent, contractor, or an agent of a contractor who violates one of the standards set forth in Section II of this Code of Conduct shall be subject to penalties, sanctions, or other disciplinary actions.

IV. ADDITIONAL REQUIREMENTS SPECIFIC TO COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

- (1) None of the following or their immediate family members, during the tenure of the subject person or for one year thereafter, shall have any direct or indirect financial interest in any contract, subcontract or the proceeds thereof for work to be performed in connection with Union County's Community Development Block Grant Program: employees or agents of Union County who exercise any function or responsibility with respect to Union County's Community Development Block Grant Program, and Union County officials, including members of the Union County Board of Commissioners. This same prohibition shall be incorporated in all contracts or subcontracts for work to be performed in connection with Union County's Community Development Block Grant Program.
- (2) If a procurement under Union County's Community Development Block Grant Program is not for supplies, equipment, construction, or services (for example, the acquisition or disposition of real property or the provision of assistance with Community Development Block Grant funds), then the following conflict of interest standard shall also apply:
 - a. Except for eligible administrative or personnel costs or except as otherwise approved by the State of North Carolina or the United States Department of Housing and Urban Development in accordance with 24 CFR § 570.489(h), no "CDBG covered persons," as that term is defined below, who exercise or have exercised any functions or responsibilities with respect to Union County's Community Development Block Grant activities or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds there under, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.
 - b. For purposes of this subsection (2), "CDBG covered persons" shall include any person who is a Union County employee, agent, consultant, officer, elected official, or appointed official.
 - c. For purposes of this subsection (2), "family ties" means spouse, parents, children, brother, sister, grandparents, grandchildren and the step, half, and in-law relationships.
 - d. For purposes of this subsection (2), "business ties" means an officer, employee, agent, or any stockholder or shareholder holding at least 10 percent ownership of any firm, contract, or subcontract which benefits from funding assistance under the grant agreement.

ADDENDUM # 3
Revised October 17, 2011

**PROVISIONS APPLICABLE TO COVERED MASS TRANSIT EMPLOYEES, COVERED
EMPLOYEES WHO DRIVE COMMERCIAL VEHICLES, AND COVERED APPLICANTS FOR
SUCH POSITIONS**

SECTION 1

Applicability

The provisions in this Addendum #3 (hereinafter “Addendum”) are only applicable to Covered Mass Transit Employees, Covered Employees who drive Commercial Vehicles, and Covered Applicants for such positions. The provisions shall be read to be in addition to those provisions set forth in the Union County Drug and Alcohol Free Workplace Policy, as amended (the “Policy”). Where there is a conflict between this Addendum and the Policy, this Addendum shall control.

SECTION 2

Definitions

Adulterated specimen means a specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

Aliquot means a fractional part of a specimen used for testing. It is taken as a sample representing the whole specimen.

Confirmatory Drug Test means a second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or metabolite.

Confirmatory Validity Test means a second test performed on a different aliquot of the original urine specimen to further support a validity test result.

Dilute Specimen means a urine specimen with creatine and specific gravity values that are lower than expected for human urine.

Disabling Damage means damage that precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs. This definition includes damage to a motor vehicle, where the vehicle could have been driven, but would have been further damaged if so driven. This definition excludes: damage that can be remedied temporarily at the scene of the accident without special tools or parts; tire disablement without other damage even if no spare tire is available; headlamp or tail light damage; and damage to turn signals, horn, or windshield wipers, which makes the vehicle inoperable.

HHS means the Department of Health and Human Services or any designee of the Secretary, Department of Health and Human Services.

Initial Drug Test or Screening Drug Test means the test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

Initial Specimen Validity Test means the first test used to determine if a urine specimen is adulterated, diluted, substituted, or invalid.

Invalid Result or Invalid Drug Test means the result reported by an HHS-certified laboratory in accordance with the criteria established by the HHS Mandatory Guidelines when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.

Laboratory means any U.S. laboratory certified by HHS under the National Laboratory Certification Program as meeting the minimum standards of Subpart C of the HHS Mandatory Guidelines for Federal Workplace Drug Test Programs; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under this part.

Limit of Detection (LOD) means the lowest concentration at which a measurand can be identified, but (for quantitative assays) the concentration cannot be accurately calculated.

Limit of Quantitation means for quantitative assays, the lowest concentration at which the identity and concentration of the measurand can be accurately established.

Negative, with respect to the results of a **drug test**, means a test result that is reported when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen.

Negative Dilute means a drug test result which is negative for the five drug/drug metabolites but has a specific gravity value lower than expected for human urine.

Positive, with respect to the results of a **drug test**, means the test result that is reported when a specimen contains a drug or drug metabolite equal to or greater than the cutoff concentrations.

Reconfirmed means the result reported for a split specimen when the second laboratory is able to corroborate the original result reported for the primary specimen.

Rejected for Testing means the result reported when no tests are performed for a specimen because of a fatal flaw or a correctable flaw that has not been corrected.

Split Specimen Collection means a collection in which the urine collected is divided into two separate bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

Substituted Specimen means a urine specimen with creatinine and specific gravity values that are so diminished that they are not consistent with normal human urine.

Validity Testing means the evaluation of the specimen to determine if it is consistent with normal human urine. Specimen validity testing will be conducted on all urine specimens provided for testing under DOT authority. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted

SECTION 3

Drug Testing Procedures

- h. The drugs that will be tested for include MDMA (Ecstasy), marijuana, cocaine, opiates, amphetamines, and phencyclidine. Initial testing for heroin will be mandatory for all opiate positives.

- i. After the identity of the donor employee/applicant is checked using picture identification, a urine specimen will be collected using the split specimen collection method described in 49 CFR Part 40, as amended. Each specimen will be accompanied by a DOT Chain of Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a HHS certified laboratory. An initial drug screen and validity test will be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS test are above the minimum thresholds established in 49 CFR Part 40, as amended.
- j. The test results from the HHS certified laboratory will be reported to the MRO, and the MRO will review the results as described in Section 10 of the Union County Drug and Alcohol Free Workplace Policy and as required by 49 CFR Part 40, as amended.
- k. Employees that have a verified positive drug test result or a test refusal due to adulteration or substitution may request a test of their split specimen. However, employees do not have access to a test of their split specimen following an invalid result. The split sample test must be conducted at a second HHS-certified laboratory with no affiliation with the laboratory that analyzed the primary specimen. The test must be conducted on the split sample that was provided by the employee at the same time as the primary sample. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the MRO within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts that were beyond the control of the employee. Union County will ensure that the cost for the split specimen is covered in order for a timely analysis of the sample. However, Union County will seek reimbursement for the split sample test from the employee.
- l. If a test is invalid without a medical explanation, a retest will be conducted under direct observation. Employees do not have access to a test of their split specimen following an invalid result.
- m. Following a negative dilute result, the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
- n. Observed collections
 - 1. Observed collections are required in the following circumstances:
 - i. All return-to-duty tests;
 - ii. All follow-up tests;
 - iii. Anytime the temperature on the original specimen was out of the accepted temperature range;
 - iv. Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with;
 - v. Anytime a collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;

- vi. Anytime the laboratory reported to the MRO that the original specimen was invalid and the MRO determined that there was not an adequate medical explanation for the result;
 - vii. Anytime the MRO reports that the original specimen was positive, adulterated or substituted, but had to be cancelled because the test of the split specimen could not be performed;
 - viii. Anytime the laboratory reports to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen to the County as negative-dilute and that a second collection must take place under direct observation.
3. The employee who is being observed will be required to raise his or her shirt, blouse, or dress/skirt, as appropriate, above the waist; and lower clothing and underpants to show the collector, by turning around that they do not have a prosthetic device.

SECTION 4

Alcohol Testing Procedures

Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). Alcohol screening tests may be performed using a non-evidential testing device which is also approved by NHSTA. If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted at least fifteen minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT. The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed by 49 CFR Part 40, as amended, to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.

SECTION 5

Test Refusals

An employee's refusal to take a required drug or alcohol test is a violation of the Union County Drug and Alcohol Free Workplace Policy. An employee who violates this Policy by refusing to take a required drug or alcohol test may not subsequently perform any Safety-Sensitive Function for the County unless and until he or she completes a SAP evaluation, referral, and education/treatment process and shall be subject to return-to-duty and follow up testing, as set forth in 49 C.F.R. Part 40.

An employee or applicant who leaves the testing site before the testing process commences for a pre-placement test is not deemed to have refused to test. An employee or applicant who does not provide a urine specimen because he or she has left the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test. An employee or applicant who does not provide an adequate amount of breath or saliva because he or she has left the testing site before the testing process commences for a pre-placement test is not deemed to have refused to test.

SECTION 6

Drug and Alcohol Tests

Revised October 17, 2011

6.1 Pre-Placement Testing

Applicants for a Covered Mass Transit Employee position are required (even if ultimately not hired) to provide their consent to Union County Transportation to request FTA drug and alcohol records from all previous, DOT-covered employers that the applicant has worked for within the last two years. The failure to do so will result in the employment offer, if any, being rescinded. Union County Transportation is required to ask all applicants for a Covered Mass Transit Employee position (even if ultimately not hired) if they have tested positive or refused to test on a pre-employment test for a DOT covered employer within the last two years. If the applicant for a Covered Mass Transit Employee position has tested positive or refused to test on a pre-employment test for another DOT covered employer, the applicant must provide Union County proof of having successfully completed a referral, evaluation and treatment plan as described in 49 CFR § 655.62. This Section 6.1 only applies to applicants for a Covered Mass Transit Employee position.

6.2 Follow-up Testing

An employee who violates this policy by refusing to take a required drug or alcohol test or by having a verified positive drug test or by having a confirmed alcohol test result of 0.04 or greater, and who seeks to resume the performance of safety-sensitive functions, will be required to undergo frequent, unannounced drug and/or alcohol testing following their return-to-duty in accordance with a written follow-up testing plan to be established by the SAP after the SAP determines that the employee has successfully complied with the SAP's recommendations for education and/or treatment. The SAP is the sole determiner of the number and frequency of follow-up tests and whether these tests will be for drugs, alcohol, or both, unless otherwise directed by the appropriate DOT agency regulations. However, the SAP must, at a minimum, direct that the employee be subject to six unannounced follow-up tests in the first 12 months of safety-sensitive duty following the employee's return to safety-sensitive functions. The requirements of the SAP's follow-up testing plan "follow the employee" to subsequent employers or through breaks in service in accordance with the provisions in 49 CFR Part 40. The employee will not be allowed to continue to perform safety-sensitive functions unless follow-up testing is conducted as directed by the SAP.

SECTION 7

49 CFR Part 382

- e. The provisions in 49 CFR Part 382, as amended, apply to Covered Employees who drive a Commercial Vehicle.
- f. The following list indicates the tests required by 49 CFR Part 382, and is meant to satisfy the requirement in 49 CFR § 382.113 that employers notify employees of tests required by Part 382. This list should not in any way be interpreted to limit the tests provided for in this Policy. 49 CFR Part 382 requires (for Covered Employees who drive Commercial Vehicles):
 - 9. Drug testing with a verified negative result prior to allowing a Covered Mass Transit Employee or applicant to perform a safety sensitive function (as defined by Part 382) for the first time. However, Part 382 does not require a drug test in this situation if: (1) the driver has participated in a controlled substances testing program that meets the requirements of

Part 382 within the previous 30 days; and (2) while participating in that program, the driver either (i) was tested for controlled substances within the past 6 months (from the date of application with the County), or (ii) participated in the random controlled substances testing program for the previous 12 months (from the date of application with the County); and (3) the County ensures that no prior employer of the driver of whom the County has knowledge has records of a violation of Part 382 or the controlled substances use rule of another DOT agency within the previous six months.

10. Post-accident testing under 49 CFR § 382.303, as described in Section 6.2(c) of the Policy.
 11. Random testing for prohibited drug use anytime the employee is on duty.
 12. Random testing for alcohol misuse while the Covered Employee is performing safety-sensitive functions (as defined by 49 CFR Part 382); just before the Covered Employee is to perform such functions, or just after the Covered Employee has ceased performing such functions.
 13. Reasonable suspicion testing for alcohol misuse if the required observations of appearance, behavior, speech, or body odors are made while the Covered Employee is performing safety-sensitive functions (as defined by 49 CFR Part 382), just preceding the performance of safety-sensitive functions (as defined by 49 CFR Part 382), or just after the Covered Employee has ceased performing safety-sensitive functions (as defined by 49 CFR Part 382);
 14. Alcohol and/or drug testing when the County has reasonable suspicion to believe that the employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion alcohol testing is authorized under 49 CFR Part 382 only if the required observations are made during, just preceding, or just after the period of the workday that the employee is required to be in compliance with 49 CFR Part 382, and the employee is directed to undergo the test while performing safety-sensitive functions (as defined by 49 CFR Part 382), just before the employee is to perform such functions, or just after the employee has ceased performing such functions.
 15. If an employee has a verified positive DOT drug test result, a DOT alcohol test with a result indicating an alcohol concentration of 0.04 or greater, or a refusal to test (including by adulterating or substituting a urine specimen) or any other violation of the prohibition on the use of alcohol or drugs under a DOT agency regulation, 49 CFR Part 382 requires return-to-duty drug and/or alcohol testing prior to the return of the employee to safety-sensitive duties (as defined by 49 CFR Part 382). Such testing must occur after the SAP has determined that the employee has successfully complied with prescribed education and/or treatment.
 16. Follow-up testing of each employee who returns to duty in accordance with a written follow-up testing plan to be established by the SAP.
- g. 49 CFR Part 382 authorizes pre-employment alcohol testing in accordance with 49 CFR § 382.301.
- h. 49 CFR Part 382 defines “safety-sensitive function” to mean “all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work.” Under this part “safety-sensitive functions” include: (1) All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer; (2) All time inspecting equipment as required by Sections 392.7 and 392.8 of Part 382 or otherwise inspecting,

servicing, or conditioning any commercial motor vehicle at any time; (3) All time spent at the driving controls of a commercial motor vehicle in operation; (4) All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth; (5) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and (5) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

SECTION 8

49 CFR Part 655

- a. The provisions in 49 CFR Part 655, as amended, apply to Covered Mass Transit Employees. The Union County Drug and Alcohol Free Workplace Policy implements elements of an anti-drug use and alcohol misuse program that are not required by 49 CFR Part 655.
- b. The following list indicates the tests required by 49 CFR Part 655, and is meant to satisfy the requirement in 49 CFR § 655.17 that employers notify employees of tests required by Part 655. This list should not in any way be interpreted to limit the tests provided for in this Policy. 49 CFR Part 655 requires:
 10. Drug testing with a verified negative result prior to allowing a Covered Mass Transit Employee or applicant to perform a safety sensitive function (as defined by Part 655) for the first time.
 11. Drug testing with a verified negative result prior to allowing a Covered Mass Transit Employee to perform a safety sensitive function if the Covered Mass Transit Employee has not performed a safety sensitive function (as defined by 49 CFR Part 655) for 90 consecutive calendar days regardless of the reason and the employee has not been in the random selection pool during that time.
 12. Alcohol testing if a Covered Mass Transit employee acknowledges the use of alcohol while on-call but claims the ability to perform his or her safety-sensitive function (as defined by 49 CFR Part 655).
 13. Alcohol and/or drug testing when the County has reasonable suspicion to believe that the Covered Mass Transit Employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion alcohol testing is authorized under 49 CFR Part 655 only if the required observations are made during, just preceding, or just after the period of the workday that the Covered Mass Transit Employee is required to be in compliance with 49 CFR Part 655, and the employee is directed to undergo the test while performing safety-sensitive functions (as defined by 49 CFR Part 655), just before the employee is to perform such functions, or just after the employee has ceased performing such functions.
 14. Random testing for alcohol misuse while the Covered Mass Transit Employee is performing safety-sensitive functions (as defined by 49 CFR Part 655); just before the Covered Mass Transit Employee is to perform such functions; or just after the Covered Mass Transit Employee has ceased performing such functions.
 15. Random testing for prohibited drug use anytime a Covered Mass Transit Employee is on duty.

16. Post-accident drug and alcohol testing under 49 CFR § 655.44 as described by Section 6.2(c) of the Policy.
17. If a Covered Mass Transit Employee has a verified positive DOT drug test result, a DOT alcohol test with a result indicating an alcohol concentration of 0.04 or greater, or a refusal to test (including by adulterating or substituting a urine specimen) or any other violation of the prohibition on the use of alcohol or drugs under a DOT agency regulation, 49 CFR Part 655 requires return-to-duty drug and/or alcohol testing prior to the return of the employee to safety-sensitive duties (as defined by 49 CFR Part 655). Such testing must occur after the SAP has determined that the employee has successfully complied with prescribed education and/or treatment.
18. Follow-up testing of each Covered Mass Transit Employee who returns to duty in accordance with a written follow-up testing plan to be established by the SAP.
 - a. 49 CFR Part 655 authorizes pre-employment alcohol testing in accordance with 49 CFR § 655.42.
 - b. 49 CFR Part 655 defines “safety-sensitive function” to mean any of the following duties: (1) Operating a revenue service vehicle, including when not in revenue service; (2) Operating a nonrevenue service vehicle, when required to be operated by a holder of a Commercial Driver’s License; (3) Controlling dispatch or movement of a revenue service vehicle; (4) Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service; and (5) Carrying a firearm for security purposes.